

## Deposition of Janet Boller (JB Dep)



Deposition of:  
**Janet Boller , PsyD**

*August 12, 2020*

In the Matter of:  
**John Doe Vs. Washington & Lee  
University**

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Page 1

IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF VIRGINIA  
LYNCHBURG DIVISION

JOHN DOE,  
Plaintiff,  
vs.  
WASHINGTON AND LEE  
UNIVERSITY,  
Defendant.

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: No. 6:19-CV-00023  
:  
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Wednesday, August 12, 2020

CONFIDENTIAL AND UNDER SEAL

Oral deposition of JANET BOLLER, PsyD,  
taken remotely at the home of Janet Boller, 616  
South Main Street, Lexington, Virginia,  
commencing at 9:00 a.m., and stenographically  
recorded by Theresa F. Franco, a Court Reporter  
and Notary Public.

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<p style="text-align: right;">Page 2</p> <p>1 APPEARANCES: (Remotely via teleconference)</p> <p>2 CONRAD O'BRIEN</p> <p>3 By: ANDREW GALLINARO, ESQUIRE</p> <p>4 PATRICIA HAMILL, ESQUIRE</p> <p>5 1500 Market Street, Centre Square</p> <p>6 West Tower, Suite 3900</p> <p>7 Philadelphia, Pennsylvania 19102</p> <p>8 215-864-9600</p> <p>9 agallinaro@conradobrien.com</p> <p>10 phamill@conradobrien.com</p> <p>11 Representing the Plaintiff, John Doe</p> <p>12</p> <p>13 MCGUIRE WOODS, LLP</p> <p>14 By: R. CRAIG WOOD, ESQUIRE</p> <p>15 MICAH SCHWARTZ, ESQUIRE</p> <p>16 652 Jefferson Parkway, Suite 530</p> <p>17 P.O. Box 1288</p> <p>18 Charlottesville, Virginia 22902</p> <p>19 434-977-2558</p> <p>20 cwood@mcguirewoods.com</p> <p>21 mschwartz@mcguirewoods.com</p> <p>22 Representing the Defendant, Washington and</p> <p>23 Lee University</p> <p>24</p> <p>ALSO PRESENT:</p> <p>JENNIFER KIRKLAND - Representative of</p> <p>Washington and Lee University</p> <p>JANA SHEARER - In-house counsel for</p> <p>Washington and Lee University</p> <p>---</p>	<p style="text-align: right;">Page 4</p> <p>1 EXHIBITS CONTINUED</p> <p>2 ---</p> <p>3 NUMBER DESCRIPTION PAGE</p> <p>4 Exhibit-7 Document titled, Sexual 70</p> <p>5 Assault Prevention at W&amp;L,</p> <p>6 Board of Trustees, October</p> <p>7 7th, 2016</p> <p>8</p> <p>9 Exhibit-8 Sexual Assault Patterns and 73</p> <p>10 Responses, Presentation to</p> <p>11 HSMB, September 2016,</p> <p>12 Janet Boller, PsyD</p> <p>13 Exhibit-9 Email exchange between 120</p> <p>14 Dr. Boller and [REDACTED]</p> <p>15 on April 7th, 2017</p> <p>16 Exhibit-10 Letter Dr. Boller prepared 113</p> <p>17 for [REDACTED]</p> <p>18</p> <p>19 Exhibit-11 The DSM5 137</p> <p>20</p> <p>21 Exhibit-13 Summary of Dr. Boller's 183</p> <p>22 interview with Ms. Kozak</p> <p>23 and Mr. Rodocker on</p> <p>24 April 17, 2017</p> <p>Exhibit-14 Interview summary of 205</p> <p>Dr. Boller by Mr. Rodocker</p> <p>and Ms. Kozak, 11/7/2014</p> <p>---</p> <p>REQUEST FOR DOCUMENTS</p> <p>PAGE LINE</p> <p>114 19</p>
<p style="text-align: right;">Page 3</p> <p>1 INDEX</p> <p>2 ---</p> <p>3 Witness: JANET BOLLER, PSYD PAGE</p> <p>4 By Mr. Gallinaro ..... 6</p> <p>5 ---</p> <p>6 EXHIBITS</p> <p>7 ---</p> <p>8 NUMBER DESCRIPTION PAGE</p> <p>9 Exhibit-1 Written Discovery response 28</p> <p>10 to a request for what</p> <p>11 trainings are provided at</p> <p>12 the university</p> <p>13</p> <p>14 Exhibit-2 Document titled, Sexual 38</p> <p>15 Misconduct at W&amp;L, Awareness,</p> <p>16 Resources and Response,</p> <p>17 Speak and One In Four,</p> <p>18 fall 2011</p> <p>19</p> <p>20 Exhibit-3 Speech from Take Back the 39</p> <p>21 Night</p> <p>22 Exhibit-4 Speech from Take Back The 41</p> <p>23 Night event, 2017/2018 year</p> <p>24</p> <p>Exhibit-5 Speak Training sign-in 47</p> <p>sheet, dated 11/15/2015</p> <p>Exhibit-6 Document titled, Sexual 54</p> <p>Relationships at W&amp;L,</p> <p>How to Support Healthy Sexual</p> <p>Relationships and How to</p> <p>Respond When Things Go Wrong,</p> <p>referred to as Peer Leader</p> <p>Training, Fall of 2016</p>	<p style="text-align: right;">Page 5</p> <p>1 ---</p> <p>2 THE COURT REPORTER: The attorneys</p> <p>3 participating in this deposition</p> <p>4 acknowledge that I am not physically</p> <p>5 present in the deposition room and that I</p> <p>6 will be reporting this deposition</p> <p>7 remotely. They further acknowledge that,</p> <p>8 in lieu of an oath administered in person,</p> <p>9 I will administer the oath remotely. The</p> <p>10 parties and their counsel consent to this</p> <p>11 arrangement and waive any objections to</p> <p>12 this manner of reporting.</p> <p>13 Please indicate your agreement by</p> <p>14 stating your name and your agreement on</p> <p>15 the record.</p> <p>16 MR. GALLINARO: Andrew Gallinaro on</p> <p>17 behalf of Plaintiff, and I agree.</p> <p>18 MR. WOOD: Craig Wood on behalf of</p> <p>19 the defendant, and we agree.</p> <p>20 ---</p> <p>21 JANET BOLLER, PSYD, having been</p> <p>22 first remotely duly sworn pursuant to</p> <p>23 agreement of counsel, was examined and</p> <p>24 testified as follows:</p>

JANET BOLLER, PSYD - CONFIDENTIAL/UNDER SEAL

<p style="text-align: right;">Page 6</p> <p>1           - - -</p> <p>2           EXAMINATION</p> <p>3           - - -</p> <p>4 BY MR. GALLINARO:</p> <p>5       Q.   Good morning, Dr. Boller. How are</p> <p>6 you?</p> <p>7       A.   Good morning. How are you?</p> <p>8       Q.   Good, thank you. I want to start</p> <p>9 by just saying thank you for participating</p> <p>10 virtually here today. I know these are unusual</p> <p>11 times, and we're all doing the best we can, and</p> <p>12 I appreciate you making yourself available.</p> <p>13       A.   Sure.</p> <p>14       Q.   You should have received a package.</p> <p>15       A.   I did.</p> <p>16       Q.   If you could open that so that you</p> <p>17 have the binder of things in there.</p> <p>18       A.   This is sealed in a few places.</p> <p>19       Q.   Top secret stuff here.</p> <p>20       A.   Understandable. Yes. Okay. So</p> <p>21 there's a binder, yes.</p> <p>22       Q.   Okay. If you just keep that handy.</p> <p>23 I'll be referring to it from time to time.</p> <p>24       A.   Okay. Great.</p>	<p style="text-align: right;">Page 8</p> <p>1       A.   Okay.</p> <p>2       Q.   Another thing that the court</p> <p>3 reporter can't take down, which I see you're</p> <p>4 doing now, is nodding the head and statements</p> <p>5 like "uh-huh" and "uh-uh" are difficult for the</p> <p>6 court reporter to capture. So when you answer</p> <p>7 my questions, I would appreciate it if you</p> <p>8 could make your responses verbal.</p> <p>9       A.   I will do my best. Yes.</p> <p>10       Q.   If anything that I ask you isn't</p> <p>11 clear to you or you don't understand the</p> <p>12 question that I've asked, just let me know and</p> <p>13 I'll do my best to rephrase it so that I'm sure</p> <p>14 that you can understand it.</p> <p>15       A.   Okay.</p> <p>16       Q.   If you answer my question, I'll</p> <p>17 assume that you've understood what I asked you.</p> <p>18 Is that fair?</p> <p>19       A.   Yes.</p> <p>20       Q.   Okay. Is there any reason sitting</p> <p>21 here today, either medication or not feeling</p> <p>22 well, that you would have any difficulty</p> <p>23 sitting for your deposition or concentrating?</p> <p>24       A.   No.</p>
<p style="text-align: right;">Page 7</p> <p>1       Q.   So just sort of by way of</p> <p>2 introduction, my name is Andrew Gallinaro. I</p> <p>3 represent the plaintiff in this case. In this</p> <p>4 litigation he goes by the name John Doe, but I</p> <p>5 think you understand his name is [REDACTED]</p> <p>6 correct?</p> <p>7       A.   Correct.</p> <p>8       Q.   And you understand that you're here</p> <p>9 today to provide deposition testimony in that</p> <p>10 litigation?</p> <p>11       A.   Correct.</p> <p>12       Q.   Just sort of some ground rules for</p> <p>13 the proceeding today. This is a question and</p> <p>14 answer session. We have a court reporter here</p> <p>15 taking down everything that we say. As you</p> <p>16 just heard, the testimony is under oath just as</p> <p>17 if we were in court. Because she's trying to</p> <p>18 write down everything that we both say, it's</p> <p>19 important that we don't talk over each other</p> <p>20 because they can't type two things at the same</p> <p>21 time. So I'll do my best to let you finish</p> <p>22 your responses before I ask my next question,</p> <p>23 and I'd ask you to wait for me to finish my</p> <p>24 question before you start your response.</p>	<p style="text-align: right;">Page 9</p> <p>1       Q.   Okay. Can you tell me if you've</p> <p>2 ever been deposed before?</p> <p>3       A.   Yes, I have.</p> <p>4       Q.   How many times?</p> <p>5       A.   This is either my fourth or my</p> <p>6 fifth.</p> <p>7       Q.   Okay. So it's old hat.</p> <p>8           What are the nature of the cases in</p> <p>9 which you've been deposed?</p> <p>10       A.   I was deposed in -- I'm trying to</p> <p>11 remember -- two cases where Washington and Lee</p> <p>12 was a named party where I was not, that I, like</p> <p>13 today, was providing some information about</p> <p>14 maybe one of the involved parties. One case</p> <p>15 where a student, a Washington and Lee student's</p> <p>16 family was involved but Washington and Lee was</p> <p>17 not a named party, but I was the therapist for</p> <p>18 the student involved, and so I was asked some</p> <p>19 professional opinions about that. And I was</p> <p>20 deposed for a case back when I was in graduate</p> <p>21 school where I was part of a -- I don't know</p> <p>22 that it was technically a class action, but it</p> <p>23 was that sort of a situation, where there was a</p> <p>24 group making a claim against the university</p>

JANET BOLLER, PSYD - CONFIDENTIAL/UNDER SEAL

<p style="text-align: right;">Page 10</p> <p>1 for, again, I don't know that this is a  2 technical legal term, but essentially a breach  3 of contract situation. That was about like 20  4 years ago.  5 Q. Okay. The two cases involving  6 Washington and Lee, were those -- were those  7 cases involving claims of sexual assault?  8 A. One of them was. One of them was  9 not.  10 Q. What was the topic of the other  11 one, just generally?  12 A. A student who had a suicide  13 attempt.  14 Q. And as best you can recall, when  15 was the -- when did you provide the deposition  16 testimony in the sexual assault-related matter?  17 A. I don't remember the year. I would  18 say it was something like 2015 or 2016, so five  19 years ago or so.  20 Q. And then the suicide case?  21 A. That was earlier this year.  22 Q. And then you referred to another  23 case involving a Washington and Lee student but  24 not in which the school was a party?</p>	<p style="text-align: right;">Page 12</p> <p>1 Q. Okay. I just want to ask some,  2 sort of, background questions.  3 A. Okay.  4 Q. Are you -- are you the author of  5 any books or manuals?  6 A. No.  7 Q. Have you authored any articles that  8 have been published in any scientific journals?  9 A. Not as a lead author. It's  10 possible that I am a secondary author on  11 articles from many years ago, with researchers  12 that I worked with back --  13 Q. Can you tell me, just generally,  14 what the nature of those articles were?  15 A. Yes. What those would have been  16 would have been related to either my mentor's  17 research in graduate school, which was related  18 to a scale that was used to measure people's  19 affect and cognitive processes in a general way  20 sort of detecting psychopathology, and then  21 possibly also related to a Principal  22 Investigator's research at the Medical College  23 of Wisconsin, who did AIDS intervention  24 research where we were interviewing couples and</p>
<p style="text-align: right;">Page 11</p> <p>1 A. Correct.  2 Q. Am I understanding you correct that  3 he or she brought a claim against some third  4 party in which they needed your testimony to  5 support some aspect of their claim?  6 A. That's right.  7 Q. Okay. Okay. What have you done to  8 prepare for your deposition today?  9 A. I met with counsel who are present  10 today on one occasion.  11 Q. Okay. About how long was that  12 meeting?  13 A. An hour and a half.  14 Q. Anything else?  15 A. And I spoke to Mr. Wood for about  16 ten minutes this morning.  17 Q. Did you, like, look through any of  18 the files or review any documents aside --  19 A. I -- aside from what?  20 Q. -- aside -- setting aside the  21 meeting with the attorneys, have you done any  22 independent review of your files or documents?  23 A. Only what they showed to me during  24 the prep meeting.</p>	<p style="text-align: right;">Page 13</p> <p>1 asking about safe sex practices.  2 Q. And other than those two articles,  3 are there any other articles that you can  4 recall either participating in the drafting of  5 or in the research of?  6 A. Not that I recall.  7 Q. Same question, and it may be the  8 same answer, but any academic journals,  9 articles?  10 A. Those -- those projects may have  11 been in academic journals. It's just been long  12 ago, and I don't remember.  13 Q. Okay. I know that you have given a  14 number of presentations inside the Washington  15 and Lee community. I want to put those aside  16 for the moment --  17 A. Okay.  18 Q. -- and ask you if you've ever given  19 any public presentations or speeches on Title  20 IX related matters outside Washington and Lee?  21 A. No.  22 Q. So, no, you haven't attended  23 conferences or seminars of any organizations in  24 which you've presented material?</p>

JANET BOLLER, PSYD - CONFIDENTIAL/UNDER SEAL

<p style="text-align: right;">Page 14</p> <p>1 A. Not where I've presented.</p> <p>2 Q. And I'm sorry, I didn't ask this,</p> <p>3 but going back to the articles, just to be</p> <p>4 clear, the two articles you described didn't</p> <p>5 have anything to do with sexual assault; did</p> <p>6 they?</p> <p>7 A. Correct. No, they did not.</p> <p>8 Q. Now with regard to conferences and</p> <p>9 seminars, how about ones that you just attended</p> <p>10 for your own education? Have you attended</p> <p>11 conferences or seminars that are relevant to</p> <p>12 the Title IX issues of sexual assault on</p> <p>13 college campuses?</p> <p>14 A. Yes.</p> <p>15 Q. Can you tell me what conferences</p> <p>16 you've attended?</p> <p>17 A. I will do my best.</p> <p>18 Q. Sure.</p> <p>19 A. Which is going to be pretty vague</p> <p>20 because I don't remember dates or probably even</p> <p>21 titles, but I have attended -- I'm not even</p> <p>22 sure I could give you a number without looking</p> <p>23 back at my continuing education file. But I've</p> <p>24 attended several, three, maybe four, related to</p>	<p style="text-align: right;">Page 16</p> <p>1 A. I've heard of it.</p> <p>2 Q. Do you receive any emails or</p> <p>3 written materials from them as part of the</p> <p>4 Listserv?</p> <p>5 A. I think -- sorry.</p> <p>6 Q. I'm sorry. I started to cut you</p> <p>7 off. I just clarified as part of the Listserv.</p> <p>8 A. Not currently.</p> <p>9 Q. Have you in the past?</p> <p>10 A. Possibly, so.</p> <p>11 Q. The conferences that you attended,</p> <p>12 did you attend those with other members of</p> <p>13 Washington and Lee?</p> <p>14 A. At times I did. At times I was</p> <p>15 alone.</p> <p>16 Q. Okay. For the one that you could</p> <p>17 recall was the Department of Criminal Justice</p> <p>18 for the State of Virginia, was that one that</p> <p>19 you attended with other members of W and L?</p> <p>20 A. I believe so.</p> <p>21 Q. Who attended that, as best you can</p> <p>22 recall?</p> <p>23 A. I believe Jan Kauffman may have</p> <p>24 attended that conference with me.</p>
<p style="text-align: right;">Page 15</p> <p>1 trauma or, you know, sexual assault or that</p> <p>2 field.</p> <p>3 Q. Do you remember the names of any of</p> <p>4 the organizations that put on those programs?</p> <p>5 A. One was the -- I might get it, not</p> <p>6 exactly, the title right, but like, the</p> <p>7 Department of Criminal Justice Services for the</p> <p>8 Commonwealth of Virginia.</p> <p>9 Q. Okay. Any others that you can</p> <p>10 recall?</p> <p>11 A. I'm trying to think. I just don't</p> <p>12 think I'm going to remember the actual -- the</p> <p>13 names of the, you know, the actual conference</p> <p>14 or the group that sponsored it off the top of</p> <p>15 my head.</p> <p>16 Q. Okay. Are you familiar with an</p> <p>17 organization called ATIXA?</p> <p>18 A. Yes.</p> <p>19 Q. I know that they provide a number</p> <p>20 of trainings in that space. Have you ever</p> <p>21 attended one of theirs?</p> <p>22 A. I'm not sure.</p> <p>23 Q. Are you familiar with that</p> <p>24 organization?</p>	<p style="text-align: right;">Page 17</p> <p>1 Q. Okay. Who's that?</p> <p>2 A. She is the Director of Health</p> <p>3 Promotion at Washington and Lee.</p> <p>4 Q. Okay. Anybody else that you can</p> <p>5 recall, either that conference or any other</p> <p>6 conference?</p> <p>7 A. Any other conference?</p> <p>8 Q. Yeah.</p> <p>9 A. I attended a workshop or conference</p> <p>10 with Rallie Snowden, and she is --</p> <p>11 Q. Is that someone's name, I</p> <p>12 apologize?</p> <p>13 A. Yes. Rallie, R-A-L-L-I-E, for the</p> <p>14 reporter, Snowden.</p> <p>15 Q. Okay. And who's that?</p> <p>16 A. She is a Licensed Clinical Social</p> <p>17 Worker in the Counseling Center at Washington</p> <p>18 and Lee.</p> <p>19 Q. Have you ever attended any</p> <p>20 conferences with Lauren Kozak?</p> <p>21 A. Possibly one, but I don't remember</p> <p>22 for certain.</p> <p>23 Q. Okay. Could you -- could you give</p> <p>24 me a, sort of a -- I don't need excruciating</p>



JANET BOLLER, PSYD - CONFIDENTIAL/UNDER SEAL

<p style="text-align: right;">Page 18</p> <p>1 detail, but just a synopsis of your educational  2 history starting with college?  3 A. I attended Bennington College for  4 undergrad and majored in Childhood Development  5 and Politics. And I attended Seton Hall  6 University for graduate school. I received a  7 Masters in Education, as well as a PsyD, a  8 P-S-Y-D, a doctoral degree in Clinical  9 Psychology.  10 Q. Any other -- I'm sorry, I heard an  11 echo.  12 Any other formal education at any  13 academic institution other than those two?  14 A. Nope.  15 Q. Okay. Do you hold any licenses or  16 certifications?  17 A. I'm a Licensed Clinical  18 Psychologist.  19 Q. And who is that through?  20 A. The Commonwealth of Virginia.  21 Q. Okay. Would you -- would you give  22 me your employment history since finishing grad  23 school?  24 A. I will do my best.</p>	<p style="text-align: right;">Page 20</p> <p>1 so I guess that would have been about 2003  2 to 2004.  3 Q. And what was the nature of the work  4 that you did there?  5 A. That was a clinic offering  6 intensive psychotherapy in an intensive  7 outpatient program for adolescents and adults.  8 I focused more on the adolescent program where  9 we did groups and individual therapy and the  10 treatment protocol that I primarily used was  11 something called Dialectical Behavior Therapy  12 or DBT, which is designed to treat people who  13 present with self-injurious behavior, suicidal  14 attempts or behavior with that kind of specific  15 treatment protocol.  16 Q. And after the Two Brattle Center?  17 A. I worked at the Judge Baker  18 Children's Center, part of their Manville  19 School, which was also in Boston, and I  20 worked --  21 Q. What was the nature --  22 A. I'm sorry?  23 Q. What was the nature of that work?  24 A. I was a, you know, served as one</p>
<p style="text-align: right;">Page 19</p> <p>1 Q. Yep.  2 A. I worked for the Medical College of  3 Wisconsin at their Center for Aids Intervention  4 Research in Milwaukee, Wisconsin, as I was  5 finishing grad school and upon finishing. I  6 worked there for about two years, I believe. I  7 then --  8 Q. I'm sorry to interrupt you --  9 A. Yeah, sorry.  10 Q. If you can recall the years as  11 you're telling me these different positions, it  12 would be helpful, but I understand it's not  13 always the easiest thing to remember, but just  14 the best you can.  15 A. Okay. Early 2000s, like maybe 2001  16 to 2003.  17 Q. Okay.  18 A. I then -- shall I continue?  19 Q. Yes, please.  20 A. Then I moved to Boston,  21 Massachusetts, and I worked at a small private  22 clinic called Two, as in the number, Brattle  23 Center, which was a clinic where I did my post  24 doctoral fellowship. And that was for a year,</p>	<p style="text-align: right;">Page 21</p> <p>1 of, I can't remember how many, you know ten to  2 12 members of the counseling team. All of the  3 children -- it was a therapeutic school for  4 children with behavioral and emotional  5 disabilities. And all of the kids in the  6 program had a therapist, so I was one of the  7 therapists providing clinical services to the  8 students.  9 Q. Okay. And after that position,  10 what came next?  11 A. Then we moved to Lexington,  12 Virginia, and I had a private practice in  13 Lexington for two to three years.  14 Q. And roughly what year was that?  15 A. 2007 to about 2010.  16 Q. Okay. And was there any particular  17 focus or specialty of your private practice?  18 A. It was fairly general, although I  19 was one of the local people who did see  20 children and adolescents, but I wouldn't say it  21 was my specialty.  22 Q. Okay. And then from there, did you  23 join W and L?  24 A. Yes.</p>



JANET BOLLER, PSYD - CONFIDENTIAL/UNDER SEAL

<p style="text-align: right;">Page 22</p> <p>1 Q. Okay. And what has your -- have</p> <p>2 you always been in the same position or have</p> <p>3 you had different roles within the university</p> <p>4 since being employed?</p> <p>5 A. I've held the same position.</p> <p>6 Q. And that's as a clinical</p> <p>7 psychologist in the Student Health Counseling</p> <p>8 Center?</p> <p>9 A. In the University Counseling</p> <p>10 Center, correct.</p> <p>11 Q. Okay. Okay. And that's been</p> <p>12 since, roughly, 2010?</p> <p>13 A. Yes.</p> <p>14 Q. Thank you for that.</p> <p>15 A. Sure.</p> <p>16 Q. Had any of the prior positions up</p> <p>17 until the time you were employed by W&amp;L, had</p> <p>18 any of them had any particular focus in the</p> <p>19 areas of trauma or sexual assault?</p> <p>20 A. Not a particular focus, no.</p> <p>21 Q. Are you -- are you associated with</p> <p>22 any nonprofits or charities?</p> <p>23 A. I suppose. What do you mean by</p> <p>24 associated with?</p>	<p style="text-align: right;">Page 24</p> <p>1 A. Again, I've attended conferences</p> <p>2 that have been hosted by some of those</p> <p>3 organizations, and I have donated money to</p> <p>4 Project Horizon, which is a local</p> <p>5 shelter/hotline service.</p> <p>6 Q. When you said you attended</p> <p>7 conferences hosted by those organizations, do</p> <p>8 you recall what they were?</p> <p>9 A. No. I'm referring back to what we</p> <p>10 were talking about before where I'm just not</p> <p>11 recalling specifically, but I think some of</p> <p>12 them could have been hosted by organizations</p> <p>13 that, sort of, support that issue in general.</p> <p>14 Q. Okay. Other than attending those</p> <p>15 trainings or conferences or seminars, however</p> <p>16 we're referring to them, but those</p> <p>17 organizations that deal with Title IX issues,</p> <p>18 is there any other way in which you stay up to</p> <p>19 date or educate yourself on issues related to</p> <p>20 sexual assault in a campus setting?</p> <p>21 A. Reading, reading articles, reading</p> <p>22 books.</p> <p>23 Q. Can you tell me what articles and</p> <p>24 books you've read, as best you can recall?</p>
<p style="text-align: right;">Page 23</p> <p>1 Q. I guess I'll start with, do you</p> <p>2 have any -- are you in any leadership position</p> <p>3 of any charity or nonprofit organization?</p> <p>4 A. Not currently. I guess I'm</p> <p>5 technically on the board of our local soccer</p> <p>6 club.</p> <p>7 Q. Okay.</p> <p>8 A. But we only meet once a year.</p> <p>9 Q. And hopefully they have nothing to</p> <p>10 do with trauma or sexual assault.</p> <p>11 A. They do not.</p> <p>12 Q. Have you ever -- have you been in a</p> <p>13 leadership role of any nonprofit or charitable</p> <p>14 organizations in the past that dealt with those</p> <p>15 issues?</p> <p>16 A. Not that dealt with those issues,</p> <p>17 no.</p> <p>18 Q. Are you a member of any nonprofit</p> <p>19 or charitable organizations that deal with</p> <p>20 those issues?</p> <p>21 A. Not a member, no.</p> <p>22 Q. Do you have any association at all</p> <p>23 with any organizations that deal with those</p> <p>24 issues?</p>	<p style="text-align: right;">Page 25</p> <p>1 A. Probably not. You know, Bessel van</p> <p>2 der Kolk's The Body Keeps The Score, is a</p> <p>3 really, sort of, well-known text related to</p> <p>4 trauma. I've read that. I've read something</p> <p>5 called Trauma Stewardship. What's the other</p> <p>6 man's name? I don't remember that author.</p> <p>7 There's someone named Peter Levine who writes</p> <p>8 about trauma, whose work I've read. And then</p> <p>9 articles, there's just no way I can remember.</p> <p>10 Q. Okay. Do you feel that through</p> <p>11 that activity that you're keeping yourself up</p> <p>12 to date on, sort of, the general state of</p> <p>13 knowledge in that sphere in the scientific</p> <p>14 community?</p> <p>15 A. I believe so.</p> <p>16 Q. I'd like to turn now to the</p> <p>17 training that you provide.</p> <p>18 A. Okay.</p> <p>19 Q. We had -- well, let me start with,</p> <p>20 how did you -- I understand from reviewing</p> <p>21 documents and certain Discovery responses in</p> <p>22 this case, that you've provided a number of</p> <p>23 trainings to a number of different groups on</p> <p>24 campus.</p>

JANET BOLLER, PSYD - CONFIDENTIAL/UNDER SEAL

<p style="text-align: right;">Page 26</p> <p>1 How did you first become involved</p> <p>2 in providing training to the W&amp;L community?</p> <p>3 A. I'm not sure that I recall just</p> <p>4 other than when I was hired it was part of the</p> <p>5 job as I understood it, as it was explained to</p> <p>6 me, that I provide presentations on, you know,</p> <p>7 as a member of the counseling team, on various</p> <p>8 topics. And I've done that really since the</p> <p>9 beginning.</p> <p>10 Q. Okay. So do other members of that</p> <p>11 counseling center do similar trainings that you</p> <p>12 do?</p> <p>13 A. When you say similar, what do you</p> <p>14 mean?</p> <p>15 Q. Well, let's just start more</p> <p>16 general. Are other members of that office</p> <p>17 expected to perform training of any kind within</p> <p>18 the W&amp;L community?</p> <p>19 A. Yes.</p> <p>20 Q. And yours seem to have a particular</p> <p>21 focus on sexual assault; would you agree with</p> <p>22 that?</p> <p>23 A. Probably more of the trainings I do</p> <p>24 are related to that topic, yes.</p>	<p style="text-align: right;">Page 28</p> <p>1 this particular topic, which is sexual assault?</p> <p>2 A. Correct.</p> <p>3 Q. There is, if you open your binder</p> <p>4 to tab one.</p> <p>5 A. Okay.</p> <p>6 - - -</p> <p>7 (Whereupon the document was marked,</p> <p>8 for identification purposes, as</p> <p>9 Exhibit-1.)</p> <p>10 - - -</p> <p>11 BY MR. GALLINARO:</p> <p>12 Q. I want to just see if we can, sort</p> <p>13 of, have a common understanding of how many</p> <p>14 trainings you've provided and what the topics</p> <p>15 were. The university, in tab one, had</p> <p>16 responded to written Discovery requests that we</p> <p>17 had asked for that asked for, you know, what</p> <p>18 are all the trainings that are provided at the</p> <p>19 university. So a number of them are in this</p> <p>20 tab one that refer to you. And I just want to</p> <p>21 tick through them with you and see if you think</p> <p>22 it's a complete list or there's more that we</p> <p>23 need to talk about.</p> <p>24 A. Okay.</p>
<p style="text-align: right;">Page 27</p> <p>1 Q. Are there any other members of the</p> <p>2 office that provide that kind of training on</p> <p>3 that topic?</p> <p>4 A. Some of them have probably helped</p> <p>5 with some of those efforts, but none of them</p> <p>6 probably provide it to the extent that I do.</p> <p>7 Q. Okay. And who in the office has</p> <p>8 helped you with those efforts?</p> <p>9 A. Again, Rallie Snowden, the name I</p> <p>10 mentioned earlier, has done some of the</p> <p>11 prevention programming that we offer. I'm</p> <p>12 trying to think. A counselor who used to work</p> <p>13 there who no longer works there was also</p> <p>14 involved with some of those programs. Her name</p> <p>15 is Beth Curry. She's no longer a part of the</p> <p>16 university, and I don't recall if she was at</p> <p>17 the time of the case we're talking about today.</p> <p>18 And I don't recall if the others have, you</p> <p>19 know, been involved in any of the trainings or</p> <p>20 presentations related to this specific topic or</p> <p>21 not.</p> <p>22 Q. Okay. So if I'm understanding you</p> <p>23 correct, out of the topics that others may</p> <p>24 present, you're the one that does the most with</p>	<p style="text-align: right;">Page 29</p> <p>1 Q. So the first one appears on page 1,</p> <p>2 August 14th, 2012. It is Bringing in the</p> <p>3 Bystander training, and it's training that you</p> <p>4 provided at least to Jason Rodocker.</p> <p>5 Do you see that?</p> <p>6 A. I do.</p> <p>7 Q. Okay. Without, you know, just give</p> <p>8 me sort of like the couple-sentence synopsis of</p> <p>9 what Bringing in the Bystander training is?</p> <p>10 A. Bringing in the Bystander is a</p> <p>11 program that we don't specifically use by that</p> <p>12 name any longer, but at the time it was our --</p> <p>13 our bystander intervention training, which is</p> <p>14 our primary prevention program for preventing</p> <p>15 sexual misconduct.</p> <p>16 Q. And I'm not sure if the list of who</p> <p>17 attended is complete. I suspect it's not.</p> <p>18 Would that be something that you would have</p> <p>19 provided to multiple people?</p> <p>20 A. Yes.</p> <p>21 Q. Okay. The next training appears on</p> <p>22 page 6, and that's the one dated November 4th.</p> <p>23 It's a Safe Space training?</p> <p>24 A. Yep.</p>

JANET BOLLER, PSYD - CONFIDENTIAL/UNDER SEAL

<p style="text-align: right;">Page 30</p> <p>1 Q. You and the individual you 2 identified before, Rallie Snowden, presented 3 training to at least Lauren Kozak and Jason 4 Rodocker; is that correct? 5 A. Yes. Again, very likely to have 6 been more people than just the two of them. 7 Q. Okay. And what, again, just a 8 brief synopsis of what Safe Space training is? 9 A. Safe Space training at Washington 10 and Lee is related to, as it says, offering 11 support for the lesbian, gay, bisexual, 12 transgender, queer community. Really just 13 providing, again, support, awareness, 14 information about how to -- how to work with 15 people in the LGBTQ community in the most 16 supportive way. 17 Q. The next training appears on page 18 9, and that's the one dated October 7th, 2015? 19 A. Okay. 20 Q. And it's Hearing Advisor training? 21 A. Okay. 22 Q. And you see that you and Lauren 23 Kozak provided that training? 24 A. I see that.</p>	<p style="text-align: right;">Page 32</p> <p>1 understand your description of the training 2 involved, sort of, how the Title IX process 3 works. If you could, sort of, break down for 4 me who takes responsibility for what, as it 5 appears you and Lauren co-trained that program. 6 A. Right. So I would not have been 7 involved in the Title IX process part of it. 8 Lauren Kozak has always presented on policy, 9 process, and answering any questions about that 10 or explaining those -- or explaining that to 11 whatever body of people, whether that's 12 students or other members of the community in 13 some way. 14 And my role in those trainings, 15 although I don't recall this one specifically, 16 but in those types of trainings, my role would 17 be to kind of talk about what would be typical 18 for someone who had experienced sexual 19 misconduct, so what -- how they might present. 20 What might be -- what that, a person in that 21 situation, might be going through so that 22 someone like a hearing advisor could be as 23 sensitive as possible to the issues. 24 Q. Okay. The next one appears on page</p>
<p style="text-align: right;">Page 31</p> <p>1 Q. Okay. Can you tell me what Hearing 2 Advisor training entails? 3 A. To the best of my ability, this is 4 something we haven't done in a long time. I 5 think the nature of that may have changed. I 6 have not been involved with that for some time. 7 The best of my ability or recollection is that, 8 hearing advisors are students who are trained 9 in order to assist other students who may be 10 going through a hearing process of some kind on 11 campus. That could be our honor violation 12 hearing process or the sexual misconduct 13 process, or the conduct process, to the best of 14 my knowledge. And hearing advisors are 15 students who are trained to just sort of serve 16 as a support resource for students who are 17 facing or have been involved with any of those 18 hearing bodies. Does that make sense? 19 Q. Yeah. You see a reference there to 20 Student B, who is a hearing advisor to Ms. Roe. 21 I'll represent to you, Ms. Roe refers to [REDACTED] 22 [REDACTED] Do you have any idea who Student B is? 23 A. No idea. 24 Q. What's -- break down for me, I</p>	<p style="text-align: right;">Page 33</p> <p>1 13. That's an August 30th, 2016 Harassment and 2 Sexual Misconduct Board Training that you 3 presented with a number of other folks at the 4 university. 5 A. I'm sorry, what page are we on? I 6 don't see my name on this page. 7 Q. I'm sorry, 14. 8 A. Sorry, I'm on the wrong page. 9 Okay. Yes, I see that now. 10 Q. Okay. What is the nature of that 11 training? 12 A. So, again, to the best of my 13 recollection, this training was to this board, 14 the HSMB Board, at least some of those names 15 are listed here in the column. There could 16 have been more. I suspect that there were 17 more. And my role would have been similar to 18 what I just described with the hearing 19 advisors, where I'm sort of talking about, 20 clinically, what someone who may have 21 experienced sexual misconduct would be going 22 through, what they would be experiencing in 23 order for people to, sort of, really have an 24 awareness and an understanding of what that's</p>

JANET BOLLER, PSYD - CONFIDENTIAL/UNDER SEAL

<p style="text-align: right;">Page 34</p> <p>1 like, what we know about trauma, what we know 2 about those experiences for the awareness of 3 people who would be hearing from students in 4 that situation. 5 Q. Okay. If you turn to the next 6 page, there's a September 2nd training. 7 A. Okay. 8 Q. This is Bystander Intervention 9 Training for Facilitators? 10 A. Mm-hmm. 11 Q. Tell me what the nature of that 12 training is. 13 A. So this would have been similar to 14 what we talked about earlier with the Bringing 15 In The Bystander. It may have been around this 16 time that we switched the actual name of the 17 program, and we were doing a Bystander 18 Intervention Program that was no longer the 19 trademarked program called Bringing In The 20 Bystander, but basically the same idea where we 21 are training members of the community to -- in 22 bystander skills and what it means to be able 23 to step in and speak up when you see something 24 that's concerning to you or something that</p>	<p style="text-align: right;">Page 36</p> <p>1 weeks before, two weeks before, on August 30th, 2 2016? 3 A. I would assume that as well. 4 Q. Okay. So those are the ones that 5 are listed in the University's Discovery 6 Responses. I'm going to show you a few more, 7 but I wanted to see if any others stood out in 8 your mind as relevant trainings you've provided 9 on this topic that we didn't already cover. 10 A. I mean, I can think of a few. As 11 you noted earlier, that this is a topic that I 12 offer a lot of presentations on. I'm sure 13 there's no way I could remember them all, but I 14 do know that each year, I offer a presentation 15 to groups, including the peer counselors. 16 That's a program of students who get trained in 17 lots of mental health issues to be able to 18 offer peer support, as well as our resident 19 advisors, our resident life students, RAs for 20 example. I usually offer a presentation to 21 both of those student groups at the beginning 22 of the fall term, like during our orientation 23 period. So I would say that that is something 24 I've probably done most years since I've been</p>
<p style="text-align: right;">Page 35</p> <p>1 makes you uncomfortable. 2 So we would train -- that program 3 is offered to all incoming first-year students 4 every year, both undergraduate and law 5 students, so that's a lot of people. And we 6 offer that program in groups of about 20. So 7 that means many, many programs are happening to 8 reach, you know, the entire population of both 9 of those -- those first-year students. So we 10 recruit other members of the community to offer 11 that program, and so I, along with Jan 12 Kauffman, who's listed here, would train the 13 facilitators to deliver the program. And then 14 all of us would go out and offer a couple of 15 programs to the students directly. 16 So this says it was a training for 17 those facilitators. 18 Q. And then on page 16, dated 19 September 13, 2016, there's another 20 Harassment/Sexual Misconduct Board Training 21 that you were a part of. 22 A. Yes. 23 Q. And I assume that's the same 24 program that you would have provided a few</p>	<p style="text-align: right;">Page 37</p> <p>1 at Washington and Lee. 2 I've also, most years I think, 3 probably provided a presentation to a group 4 called Speak, S-P-E-A-K, Speak -- it doesn't 5 stand for anything -- who are self-selected 6 members who are interested in this topic of 7 campus sexual misconduct. And I usually speak 8 to them about some of the issues and offering 9 support. That's sort of one of the roles that 10 they play. All of these students, actually the 11 idea is that they, as peers, may be the first 12 people to hear from one of their, another 13 student that they've experienced something. So 14 for them to be receiving that kind of 15 information, just to have them be as informed 16 as possible to be able to offer the most, you 17 know, sort of, support that they can to someone 18 who's maybe disclosed this to them. So that 19 would be another group that I've offered 20 similar training to that I've done, again, 21 probably most years. 22 I'm not recalling anything else off 23 the top of my head, but I feel as though it's 24 possible that I have done others as well.</p>

JANET BOLLER, PSYD - CONFIDENTIAL/UNDER SEAL

<p style="text-align: right;">Page 38</p> <p>1 Q. Okay. I'll take -- I'm sorry. I 2 keep hearing an echo and think someone's 3 objecting. Sorry. 4 I'll take you through some more. 5 A. Okay. 6 Q. So if you'll turn to tab two. 7 A. Okay. 8 --- 9 (Whereupon the document was marked, 10 for identification purposes, as 11 Exhibit-2.) 12 --- 13 BY MR. GALLINARO: 14 Q. I think you referenced this one 15 already. 16 A. Yes. 17 Q. There's a document here that is 18 titled, Sexual Misconduct at W&amp;L, Awareness, 19 Resources and Response, Speak and One In Four, 20 fall 2011. Do you see that? 21 A. I do. 22 Q. And is that the training you were 23 just describing that you provide every year, 24 did you say?</p>	<p style="text-align: right;">Page 40</p> <p>1 BY MR. GALLINARO: 2 Q. There's a written presentation here 3 that I assume is yours, but maybe take a look 4 at it and just let me know if I'm correct. 5 A. Yes. You're correct. This is 6 mine. This was a speech. 7 Q. Okay. And am I correct that the 8 TBTN stands for Take Back The Night? 9 A. Correct. 10 Q. And what is that? 11 A. Take Back The Night is a national, 12 sort of, vigil or rally that many college 13 campuses and many communities offer. I don't 14 believe there's a set date. I think they're 15 often in the spring, but I don't know that for 16 sure. But it's been around for decades, where 17 it's, again, sort of a vigil, a gathering of 18 support for people who have experienced sexual 19 assault in some way. 20 And Washington and Lee has done 21 that, again, I would say most years since I've 22 been a member of the Washington and Lee 23 community. This is something that Speak, the 24 student group that I referred to, would have</p>
<p style="text-align: right;">Page 39</p> <p>1 A. I said most years. I recall doing 2 it most years. I can't say for sure that it 3 has been every single year. 4 Q. Okay. 5 A. But that is an example of what I'm 6 talking about that I would have provided to 7 that group called Speak, yes. 8 Q. And what's One In Four? 9 A. That was a -- that was a program, a 10 similar program to Speak, but for men. So 11 Speak was a program for women who were 12 interested in this topic, and One in Four was 13 the program for men who were interested in this 14 topic. I don't remember when, but One In Four 15 was, sort of, dissolved and Speak Now includes 16 any gender individual who's interested in the 17 topic. 18 Q. Okay. If you'll turn to tab three. 19 A. Okay. 20 --- 21 (Whereupon the document was marked, 22 for identification purposes, as 23 Exhibit-3.) 24 ---</p>	<p style="text-align: right;">Page 41</p> <p>1 helped sponsor. 2 Q. Other than being a speaker at those 3 events, are you otherwise involved with the 4 Take Back The Night organization? 5 A. I'm not always a speaker at that 6 event. I have done it a few occasions when 7 asked, but, no, I wouldn't really say that I've 8 been involved in, sort of, the planning of 9 that. I've attended sometimes, and sometimes I 10 have not. 11 Q. Okay. You'll see on the first page 12 of this speech, in the third paragraph, you had 13 mentioned that you had no personal story. And 14 you were referring to sexual assault; is that 15 correct? 16 A. Correct. 17 Q. And then if you'll turn to tab 18 four, please. 19 A. Yes. 20 --- 21 (Whereupon the document was marked, 22 for identification purposes, as 23 Exhibit-4.) 24 ---</p>



JANET BOLLER, PSYD - CONFIDENTIAL/UNDER SEAL

<p style="text-align: right;">Page 42</p> <p>1 BY MR. GALLINARO:</p> <p>2 Q. Am I correct that this represents a</p> <p>3 speech you gave at another Take Back The Night</p> <p>4 event, this time in the 2017/2018 year? If</p> <p>5 you'll look at the third paragraph, I think it</p> <p>6 reflects that.</p> <p>7 A. Yes. I see that. Correct.</p> <p>8 Q. Have you reviewed this document in</p> <p>9 preparation for your deposition?</p> <p>10 A. No.</p> <p>11 Q. Do you recall giving this speech?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. We saw in your 2013 speech</p> <p>14 that you said you didn't have a story, and here</p> <p>15 you reference that, and you said, "It doesn't</p> <p>16 sound believable to say I don't have my own Me</p> <p>17 Too moment. All of the women I know, and here</p> <p>18 I am talking about my friends, peers and</p> <p>19 colleagues, have one. Literally if I know them</p> <p>20 well enough, they do."</p> <p>21 What are you referring to when you</p> <p>22 say a "Me Too" moment?</p> <p>23 A. If you recall, that was the year</p> <p>24 of, sort of, the hashtag Me Too movement when</p>	<p style="text-align: right;">Page 44</p> <p>1 someone making you feel uncomfortable,</p> <p>2 something like that?</p> <p>3 A. Exactly. Right.</p> <p>4 Q. And you feel that's something that</p> <p>5 every woman you know has experienced?</p> <p>6 A. Again, the people I know well have</p> <p>7 experienced something along those lines. I</p> <p>8 certainly can't speak for every woman to say</p> <p>9 that every woman has experienced that, but</p> <p>10 people I know have experienced something in</p> <p>11 that category.</p> <p>12 Q. You go on to tell a speech -- I'm</p> <p>13 sorry, a story in your speech about the fact</p> <p>14 that when you first gave the speech you didn't</p> <p>15 recall or you didn't believe you had a Me Too</p> <p>16 moment, and then you, on further reflection,</p> <p>17 you do have one, and it involves an incident</p> <p>18 with a 7th grade math teacher.</p> <p>19 Do you recall having those --</p> <p>20 A. Yes.</p> <p>21 Q. -- comments in this speech?</p> <p>22 A. Yes.</p> <p>23 Q. What was it that occurred that</p> <p>24 allowed you to remember that as a Me Too</p>
<p style="text-align: right;">Page 43</p> <p>1 many celebrity figures, including, sort of, the</p> <p>2 famous case with Harvey Weinstein, were facing</p> <p>3 public accusations from mostly women who they</p> <p>4 worked with in different capacities. You know,</p> <p>5 everything on the scale from, you know,</p> <p>6 harassment and degrading work environments to</p> <p>7 sexual assault and rape. So I'm referring to</p> <p>8 that and saying that most women that I know,</p> <p>9 myself included, have experienced at the</p> <p>10 minimal, you know, some low-level harassing</p> <p>11 type derogatory language at times in our lives.</p> <p>12 Q. Okay. So --</p> <p>13 A. So while I --</p> <p>14 Q. I'm sorry. I didn't mean to cut</p> <p>15 you off.</p> <p>16 A. I was saying, so while I haven't</p> <p>17 experienced a sexual assault or a rape, that I</p> <p>18 have experienced the harassment that became</p> <p>19 much more, sort of, publicly discussed during</p> <p>20 that Me Too year.</p> <p>21 Q. Okay. So the reference to everyone</p> <p>22 you know having a Me Too story doesn't</p> <p>23 necessarily mean something that rises to the</p> <p>24 level of assault. It can include harassment or</p>	<p style="text-align: right;">Page 45</p> <p>1 incident that you hadn't recalled back in 2013?</p> <p>2 A. I'm looking back at this for one</p> <p>3 second.</p> <p>4 Q. Sure.</p> <p>5 A. I don't see where it says that I</p> <p>6 didn't recall it. I didn't ever not remember</p> <p>7 this math grade -- this seventh grade math</p> <p>8 teacher. I remember his name. I remember him</p> <p>9 very well. It was just something that I think</p> <p>10 came -- became relevant to me again in that</p> <p>11 year where people were talking about these</p> <p>12 kinds of experiences that so many women and</p> <p>13 girls face in our culture. So nothing sort of</p> <p>14 made me recall something that I had previously</p> <p>15 not recalled; it just is something that was</p> <p>16 relevant at the time.</p> <p>17 Q. Okay. And you referred to the</p> <p>18 teacher by his name. Is there a particular</p> <p>19 reason you did that?</p> <p>20 A. Because I remembered it.</p> <p>21 Q. Okay. If you could turn to tab</p> <p>22 five, please.</p> <p>23 A. Okay. Yes.</p> <p>24 - - -</p>

JANET BOLLER, PSYD - CONFIDENTIAL/UNDER SEAL

Page 46	Page 48
<p>1 (Whereupon the document was marked, 2 for identification purposes, as 3 Exhibit-5.) 4 - - - 5 BY MR. GALLINARO: 6 Q. This is what appears to be a Speak 7 Training sign-in sheet, dated 11/15/2015. 8 A. Okay. Yep. 9 Q. Your name there at the top as, I 10 assume, one of the presenters? 11 A. Yes. 12 Q. And we've discussed Speak already. 13 A. Yes. 14 Q. And it's something you did -- you 15 presented to most years but maybe not every 16 year; that's what you said? 17 A. That's the best of my recollection. 18 Q. How is it that you're invited to do 19 these trainings? Who invites you? 20 A. So Jan Kauffman, who I had 21 mentioned before and whose name is also on this 22 list, I think is technically the advisor to 23 that group. And so either she or the members 24 of the steering committee of Speak themselves</p>	<p>1 A. I don't remember. 2 Q. Okay. You said earlier that the 3 organization Speak was merged with a different 4 organization called One In Four? 5 A. Correct. 6 Q. What does -- what is that a 7 reference to? 8 A. That is a reference to the number 9 of women who will experience a sexual assault 10 from, you know, sort of the time they're adults 11 through their college-age years. 12 Q. Okay. And what is that -- is that 13 an understanding that you have, that that's -- 14 A. I believe the current number is 15 more like one in five. That's the number 16 that's sort of the rate that I have quoted more 17 recently. 18 Q. What's the source of that 19 information? 20 A. Oh, boy, I've seen that referenced 21 in many places, you know, from -- I don't even 22 know that I could specifically say where, but 23 I've checked that statistic and was one of the 24 people who did update it in recent years from</p>
Page 47	Page 49
<p>1 have usually asked me to participate in the 2 training or the presentation. 3 Q. And you'll see that one of the 4 names listed the third line down is [REDACTED] 5 [REDACTED] Do you see that? 6 A. I do. 7 Q. Was she a member of the steering 8 committee? 9 A. I don't recall. 10 Q. Do you recall interacting with her 11 in any type of capacity on behalf of Speak? 12 A. No. 13 Q. Do you recall that she attended 14 this training? 15 A. No. 16 Q. Did you have any -- any 17 relationship with her at all before you had -- 18 she had seen you in the counseling center for 19 the assault that -- or the alleged assault that 20 brings us here today? 21 A. No. 22 Q. Would you have -- did you recognize 23 her when she came in or was she just completely 24 unfamiliar to you?</p>	<p>1 one in four. Just like I said before, trying 2 to keep up with the current knowledge, whether 3 that's from websites or articles on the -- you 4 know, that I find from different organizations. 5 But I don't think I could say specifically 6 where. 7 Q. Okay. When you say you've seen 8 references to it, are those articles referring 9 to studies or have you read the studies 10 themselves that establish that as a statistic? 11 A. A little bit of both. 12 Q. And what studies have you read that 13 establish that as a statistic? 14 A. Again, I wouldn't be able to quote 15 a specific name or a study. 16 Q. Okay. 17 A. This would have been years ago for 18 a lot of these things. 19 Q. Are you aware of any criticism of 20 the methodology or the data underlying those 21 statistics? 22 A. I'm aware that criticism and 23 skepticism exists. 24 Q. And what criticism are you aware</p>



JANET BOLLER, PSYD - CONFIDENTIAL/UNDER SEAL

<p style="text-align: right;">Page 50</p> <p>1 of?</p> <p>2 A. Again, I wouldn't know a specific</p> <p>3 name or article that is disputing it, but you</p> <p>4 know, people doubting that that number is as</p> <p>5 high as it is, people doubting, sort of, the</p> <p>6 definitions that may have been used or people's</p> <p>7 ability to recall.</p> <p>8 Q. Or the participation rate of the</p> <p>9 students?</p> <p>10 A. Possibly so. Sure.</p> <p>11 Q. Have you seen, I believe there's</p> <p>12 a -- one of the more common sources of that</p> <p>13 statistic is, I think it's an organization</p> <p>14 called AAU. I might be getting it wrong. Does</p> <p>15 that sound familiar to you? AAU, like Campus</p> <p>16 Climate Survey or something like that.</p> <p>17 A. I've heard of the Campus Climate</p> <p>18 Survey. I'm not sure what AAU stands for or</p> <p>19 not but...</p> <p>20 Q. Maybe I'm misremembering.</p> <p>21 A. Yes.</p> <p>22 Q. But there's, in one of the years</p> <p>23 that Campus Climate, I believe, survey came</p> <p>24 out, there was an executive summary that</p>	<p style="text-align: right;">Page 52</p> <p>1 recall, has it -- have you updated it or has it</p> <p>2 evolved?</p> <p>3 A. So I'm looking back at this tab</p> <p>4 two, with that particular presentation</p> <p>5 from 2011, and some -- there are some, like,</p> <p>6 statistics that are provided. There are some</p> <p>7 definitions that are provided. I believe the</p> <p>8 most current versions of this presentation I've</p> <p>9 given don't include those things. Some of the</p> <p>10 common reactions that a person may experience</p> <p>11 if they had, you know, experienced a sexual</p> <p>12 assault or some type of misconduct, that would</p> <p>13 be -- I think that all looks very similar. I</p> <p>14 think that's roughly the same as what I do now</p> <p>15 or most recently. What to do, how to be a</p> <p>16 support, a lot of that looks like that would be</p> <p>17 very similar, if not the same, as what I say</p> <p>18 now. And I believe, you know, resources would</p> <p>19 be the same or, if not, just updated to reflect</p> <p>20 anything new that's come about in terms of</p> <p>21 organizations that can provide support and</p> <p>22 resources.</p> <p>23 And I think I talk a little bit now</p> <p>24 in a way that I didn't back in 2011 about sort</p>
<p style="text-align: right;">Page 51</p> <p>1 cautioned against using it to support</p> <p>2 one-in-four or one-in-five statistics and</p> <p>3 criticized the media for doing so. Are you</p> <p>4 familiar with that or do you recall reading</p> <p>5 anything like that?</p> <p>6 A. I don't recall that.</p> <p>7 Q. The training that we're looking at</p> <p>8 here on Exhibit-5, do you recall what this</p> <p>9 training would have entailed?</p> <p>10 A. Not specifically this one. What I</p> <p>11 had described earlier about the Speak trainings</p> <p>12 in general is what I would guess this one</p> <p>13 included, but I couldn't say specifically how</p> <p>14 this one may have been slightly different than</p> <p>15 others or not.</p> <p>16 Q. Has the Speak training that you've</p> <p>17 provided, has it evolved over time, or is it</p> <p>18 more or less consistent with what we saw in the</p> <p>19 tab that we looked at earlier, which I believe</p> <p>20 was tab two?</p> <p>21 A. I would say, in general, it's the</p> <p>22 same, but at the same time I would say it has</p> <p>23 evolved a little bit.</p> <p>24 Q. Okay. In what ways, if you can</p>	<p style="text-align: right;">Page 53</p> <p>1 of holding a high standard of behavior for</p> <p>2 ourselves in our community in terms of what we</p> <p>3 expect from ourselves with how we treat one</p> <p>4 another. That doesn't look like it's in this</p> <p>5 version.</p> <p>6 Q. Okay. Do you keep in your files</p> <p>7 the various versions of the presentations that</p> <p>8 you provide?</p> <p>9 A. Sometimes I probably override them</p> <p>10 if I'm making minor updates, just sort of save</p> <p>11 it as a new document with minor changes, and</p> <p>12 sometimes I probably have the old versions. I</p> <p>13 don't -- I don't purposely do one or the other.</p> <p>14 Q. In this case, were you asked to</p> <p>15 gather and provide to either university counsel</p> <p>16 or a law firm representing the university your</p> <p>17 materials that relate to the trainings you've</p> <p>18 provided?</p> <p>19 A. Yes.</p> <p>20 Q. And did you undertake to do so</p> <p>21 thoroughly?</p> <p>22 A. Yes.</p> <p>23 Q. So if you had a training, you would</p> <p>24 have provided it to counsel?</p>

JANET BOLLER, PSYD - CONFIDENTIAL/UNDER SEAL

<p style="text-align: right;">Page 54</p> <p>1 A. Yes. Absolutely.</p> <p>2 Q. If you could turn to tab six.</p> <p>3 A. Okay.</p> <p>4 - - -</p> <p>5 (Whereupon the document was marked,</p> <p>6 for identification purposes, as</p> <p>7 Exhibit-6.)</p> <p>8 - - -</p> <p>9 BY MR. GALLINARO:</p> <p>10 Q. This is a document titled, Sexual</p> <p>11 Relationships at W&amp;L, how to Support Healthy</p> <p>12 Sexual Relationships and How to Respond When</p> <p>13 Things Go Wrong, and it's referred to as Peer</p> <p>14 Leader Training, Fall of 2016. Do you see</p> <p>15 that?</p> <p>16 A. I do.</p> <p>17 Q. What is peer leader training?</p> <p>18 A. So that would refer to the peer</p> <p>19 counselors or the Residence Life staff, any of</p> <p>20 those peer groups who have leadership roles.</p> <p>21 Q. And just remind me again, are</p> <p>22 those -- are those students or are those --</p> <p>23 A. Yes. Both of those groups would be</p> <p>24 student groups.</p>	<p style="text-align: right;">Page 56</p> <p>1 you know, someone who's knowledgeable, who</p> <p>2 lives in, especially with first years, but also</p> <p>3 with the upper division students.</p> <p>4 Q. Do you know whether any of the</p> <p>5 parties in the underlying proceeding were</p> <p>6 either peer counselors or part of the RA staff</p> <p>7 that you were just referring to?</p> <p>8 A. So the parties, meaning [REDACTED] or</p> <p>9 [REDACTED]</p> <p>10 Q. Yeah.</p> <p>11 A. I don't believe [REDACTED] was in either</p> <p>12 of those groups. I don't know about [REDACTED]</p> <p>13 Q. Do you know whether their advisors</p> <p>14 were?</p> <p>15 A. I have no idea.</p> <p>16 Q. How often have you participated in</p> <p>17 this kind of a training, peer leader trainings?</p> <p>18 A. I would say probably most years, if</p> <p>19 not every year, that I've been at Washington</p> <p>20 and Lee.</p> <p>21 Q. And who asks you to do that?</p> <p>22 A. Kirk Luder. He is a psychiatrist</p> <p>23 and member of the University Counseling Center.</p> <p>24 Q. And is this a training that you do?</p>
<p style="text-align: right;">Page 55</p> <p>1 Q. And, again, what is their -- what</p> <p>2 organizations are they part of that makes them</p> <p>3 a peer leader?</p> <p>4 A. Okay. So one is the peer counselor</p> <p>5 program, and that is a group of students who</p> <p>6 are selected by one of the other counselors in</p> <p>7 the counseling center to be trained. They</p> <p>8 receive hours and hours, like a week long of</p> <p>9 training, at least, on recognizing and</p> <p>10 responding to different forms of stress that a</p> <p>11 peer might present to them with. They're sort</p> <p>12 of like on the front lines of being peer</p> <p>13 support. So they get trained in all sorts of</p> <p>14 mental health issues provided by different</p> <p>15 members of the counseling center. And, you</p> <p>16 know, one of the topics that they get -- you</p> <p>17 know, hear presentations on is related to this</p> <p>18 topic that you see here.</p> <p>19 The other group that I'm referring</p> <p>20 to as peer leaders are the Residence Life</p> <p>21 staff, so resident advisors, community advisors</p> <p>22 who are employees of the university who, you</p> <p>23 know, serve in the housing -- in residents --</p> <p>24 residential housing as, you know, support and,</p>	<p style="text-align: right;">Page 57</p> <p>1 I only see your name listed on the program. Is</p> <p>2 this a training that you do on your own or do</p> <p>3 other members of the counseling center assist?</p> <p>4 A. This particular presentation I have</p> <p>5 always done alone.</p> <p>6 Q. If you turn to page 759, there's</p> <p>7 numbers in the bottom right hand of the --</p> <p>8 A. Oh, I see.</p> <p>9 Q. And there's, if you could turn to</p> <p>10 759.</p> <p>11 A. Yes. Okay.</p> <p>12 Q. All right. I'm getting there</p> <p>13 myself.</p> <p>14 You describe in this page and the</p> <p>15 following page common reactions to sexual</p> <p>16 assault violence; do you see that?</p> <p>17 A. I do.</p> <p>18 Q. Where did you obtain this</p> <p>19 information or what was your source to develop</p> <p>20 this list of common reactions?</p> <p>21 A. Probably no particular source, as</p> <p>22 in not like one single source, rather a, sort</p> <p>23 of, culmination of information that come from</p> <p>24 literature or diagnostic material related to</p>

JANET BOLLER, PSYD - CONFIDENTIAL/UNDER SEAL

Page 58	Page 60
<p>1 trauma or experiencing any type of traumatic, 2 you know -- any type of traumatic situation. 3 So it would have been culled probably from 4 multiple sources and from my own clinical, sort 5 of, experience and judgment of working with 6 people who have experienced, you know, trauma 7 or abuse in multiple forms. 8 Q. Understanding that it's an 9 amalgamation of various sources, are there 10 any -- are there any specific sources that you 11 could identify that would have contributed to 12 your understanding of this issue? 13 A. I mean in terms of diagnosis and 14 assessment in a formal way, I would say the 15 Diagnostic and Statistical Manual for Mental 16 Disorders, know as the DSM, in different 17 versions of that that have been published 18 through the years, different updates. So in 19 terms of like a symptomatic kind of, you know, 20 assessment list, that would be -- that would be 21 one. And then, again, I think the others would 22 be harder to pinpoint a specific source other 23 than both my clinical experience, as well as, 24 you know, many, many sort of different writings</p>	<p>1 would probably not remember any specific names. 2 Q. I'm sorry, there are window washers 3 outside my window that just got started. 4 Are you familiar with any of 5 Rebecca Campbell's work? 6 A. No. 7 Q. Have you heard of someone with the 8 last name Bennett? 9 A. Not sure. 10 Q. Other than the names you've already 11 given me, are there any other researchers or 12 authorities that you can think of that have 13 most informed your understanding of the issue 14 of sexual violence and trauma? 15 A. I don't think by a specific name, 16 no. 17 Q. Okay. 18 MR. GALLINARO: Can I go off the 19 record for one minute? 20 --- 21 (A short recess was taken.) 22 --- 23 BY MR. GALLINARO: 24 Q. When we left off from the break, we</p>
Page 59	Page 61
<p>1 on trauma reactions and, you know, anxiety and 2 dealing with, sort of, troubling experiences 3 that people have. 4 Q. Would you say there's any 5 particular research or authority in this field 6 that has most informed your understanding of 7 trauma? 8 A. Again, maybe Bessel van der Kolk is 9 considered an expert in the field, as a name, 10 you know, if there's like a particular name. 11 Q. I didn't spell that before, but the 12 court reporter would probably need that one. 13 So if you could -- 14 A. Okay. I will do my best. The 15 first name is Bessel, B-E-S-S-E-L, and the last 16 name is Van Der Kolk, V-A-N-D-E-R-K-O-L-K. 17 Q. Any other authorities that you can 18 think of that have informed your understanding 19 of the trauma and impact of sexual violence? 20 A. Again, I think I mentioned this 21 name earlier, Peter Levine is someone, 22 L-E-V-I-N-E, as someone that I recall that I've 23 read some of his work on trauma. And I've 24 heard speakers as well, but that's where I</p>	<p>1 were discussing the peer leader training 2 written materials that you presented in the 3 fall of 2016. 4 A. Correct. 5 Q. Could you turn to, excuse me, 6 page -- in the bottom right-hand corner, page 7 757? 8 A. Sure. Okay. Yes, I have that. 9 Q. This references something we had 10 been discussing previously, the statistics 11 concerning the number of women who will 12 experience some form of sexual assault in 13 college. Here you state that one in five 14 college women have been the victims of rape or 15 attempted rape. 16 Do you believe that that's an 17 accurate statistic? 18 A. Again, that seems to be the 19 statistic that I have found and that my 20 colleague Jan Kauffman, who I've mentioned 21 before, who is the advisor to Speak and works 22 with me on some of these -- in these roles and 23 this programming, have found in multiple 24 sources. So I have trusted that as a -- as</p>

JANET BOLLER, PSYD - CONFIDENTIAL/UNDER SEAL

Page 62	Page 64
<p>1 stated, that I have shared with students in</p> <p>2 these type of presentations they've done, based</p> <p>3 on the sources of where I found it.</p> <p>4 Q. I've seen other references to, in</p> <p>5 some of your presentations, to One In Four or</p> <p>6 One In Five but with regard to sexual assault.</p> <p>7 Is there a distinction in your mind between</p> <p>8 rape or attempted rape and sexual assault?</p> <p>9 A. Is there a distinction in my mind,</p> <p>10 that's your question?</p> <p>11 Q. Yes.</p> <p>12 A. You know, certainly rape has a</p> <p>13 specific legal definition or a policy</p> <p>14 definition that I know can vary from location</p> <p>15 to location. But I believe that has a specific</p> <p>16 definition. And I would say that sexual</p> <p>17 assault is more of a broad term that could</p> <p>18 encompass, you know, a variety of behaviors or</p> <p>19 misconduct. Does that answer your question?</p> <p>20 Q. It does. So I guess my question</p> <p>21 is, is the statistics that you typically review</p> <p>22 and rely upon in providing these presentations,</p> <p>23 is it that one in five women will experience</p> <p>24 the broader definition of sexual assault, which</p>	<p>1 this Exhibit-6.</p> <p>2 A. Okay.</p> <p>3 Q. And this is a slide that -- with</p> <p>4 the heading, "What To Do"?</p> <p>5 A. Yes.</p> <p>6 Q. And it sets forth, my understanding</p> <p>7 is it sets forth the things you should do if</p> <p>8 someone tells you they've been sexually</p> <p>9 assaulted; is that correct?</p> <p>10 A. Yes, some suggestions for how to</p> <p>11 respond when someone has disclosed that to you.</p> <p>12 Q. Do you observe these practices in</p> <p>13 your role as a university counselor?</p> <p>14 A. Yes.</p> <p>15 Q. Okay. And that includes the first</p> <p>16 one on the slide that says, "believe the</p> <p>17 person"?</p> <p>18 A. Yes.</p> <p>19 Q. And then there's a note at the</p> <p>20 bottom that references that that's the single</p> <p>21 most important thing you can do; is that</p> <p>22 correct?</p> <p>23 A. Yes.</p> <p>24 Q. Okay. Is there any circumstance</p>
Page 63	Page 65
<p>1 could be as broadly defined as an unwanted</p> <p>2 attempted kiss or is it rape as you've put in</p> <p>3 here?</p> <p>4 A. I would say that it's not -- it's</p> <p>5 not specific to the legal definition of rape.</p> <p>6 I would say that it's more broad.</p> <p>7 Q. Okay. So setting aside the legal</p> <p>8 definition of rape, if you are using the word</p> <p>9 rape, are you equating that with any type of</p> <p>10 sexual assault?</p> <p>11 A. No.</p> <p>12 Q. So do you stand by this statistic</p> <p>13 that one in five women will experience rape or</p> <p>14 attempted rape?</p> <p>15 A. I don't -- I don't recall us</p> <p>16 writing it that way. I'm not saying this is</p> <p>17 incorrect, but I would have thought that that</p> <p>18 would more likely have been worded as rape or</p> <p>19 sexual assault.</p> <p>20 Q. Okay. That's what -- I think I've</p> <p>21 seen it that way in other materials. That's</p> <p>22 why I wanted to pass through it.</p> <p>23 A. Okay.</p> <p>24 Q. If you could turn to page 761 of</p>	<p>1 that you can think of where it would not be</p> <p>2 appropriate to believe the person who is</p> <p>3 reporting to you that they've been assaulted?</p> <p>4 A. In my role?</p> <p>5 Q. Yeah, as a counselor.</p> <p>6 A. In my role as a counselor, I</p> <p>7 believe the truth that people bring to me in</p> <p>8 counseling, on any topic, not just sexual</p> <p>9 assault. That is where I have to meet them</p> <p>10 with that story that they're telling me with</p> <p>11 that information that they provide. So I think</p> <p>12 my stance is to believe what the truth is as</p> <p>13 their truth, as they're telling it to me.</p> <p>14 Q. It's not your role to investigate</p> <p>15 whether what they're telling you is true or</p> <p>16 not?</p> <p>17 A. Exactly.</p> <p>18 Q. You have to take it at, sort of,</p> <p>19 face value for what they report to you as the</p> <p>20 truth?</p> <p>21 A. From the point of view of the story</p> <p>22 that they're telling me, yes, I would say that</p> <p>23 that's true. There are other factors that I</p> <p>24 may take into account in terms of what is being</p>

JANET BOLLER, PSYD - CONFIDENTIAL/UNDER SEAL

<p style="text-align: right;">Page 66</p> <p>1 presented to me and whether that is consistent  2 with the things that they say, but as we said,  3 I'm not an investigator and I'm not trying to  4 determine some sort of, you know, definition of  5 truth to an outsider, but rather working with  6 the person clinically, you know, in a clinical  7 domain, who's come to me.  8 Q. Are there circumstances you could  9 think of where upon listening to someone  10 telling you their story, you would question  11 whether, you know, you should follow your sort  12 of baseline rule, which is to believe them? I  13 understand sometimes a doctor may have a  14 concern that someone is, for example, drug  15 seeking, so they might be misreporting --  16 A. Sure.  17 Q. -- things. Are there circumstances  18 like that that you've encountered as a  19 counselor?  20 A. I'm trying to think. I would say  21 that there are times when I think someone isn't  22 telling me everything, that I think there's  23 more to, you know, a story that someone isn't  24 sharing. It would be rare for me to come up --</p>	<p style="text-align: right;">Page 68</p> <p>1 example where someone might come at the  2 recommendation of someone else.  3 A. Okay.  4 Q. So you only treat -- first of all,  5 let me back up. Do you only treat students or  6 does your practice at W&amp;L expand beyond the  7 student community?  8 A. We only offer counseling services  9 to students. That's correct.  10 Q. Okay. So if a student came to you  11 and said, you know, I'm involved in this  12 litigation. It's a personal injury thing. My  13 lawyer told me it would be helpful and make me  14 a more credible witness if I actually sought  15 out some sort of treatment for what I'm  16 claiming. I'm here because my lawyer thinks  17 it'll help make me a more believable witness.  18 So could you just, like, check this box and say  19 that I came for treatment? Would that be a  20 situation where you would have some skepticism  21 of whether the person legitimately needed  22 treatment?  23 A. Yes.  24 MR. WOOD: Before you answer --</p>
<p style="text-align: right;">Page 67</p> <p>1 I'm not sure I can come up with an example of  2 where I think someone has blatantly lied about  3 something. And I think that I would partly  4 attribute that to the idea that people come  5 voluntarily to me in counseling. I don't do  6 mandated treatment. And so if someone is  7 coming for help, they're coming for help or  8 support. If they don't tell me what is going  9 on, what they've experienced, how they're  10 feeling, if they're not truthful in that  11 telling, I don't understand how they would get  12 help from me.  13 So I think that that would probably  14 partly explain why I think what they are  15 telling me is largely true. Again, are there  16 times I thought maybe they're not telling me  17 everything there is to be told? Possibly so.  18 But I don't feel like people have come and  19 lied, and I think the reason is because they  20 have come out of their own volition, right, to  21 come get support or advice or treatment from  22 me, and I'm not going to be able to do that  23 effectively if I don't know what's going on.  24 Q. Let me give you a hypothetical</p>	<p style="text-align: right;">Page 69</p> <p>1 Jana, before you answer, I object to the  2 form of the question.  3 MR. GALLINARO: Sure.  4 BY MR. GALLINARO:  5 Q. You can answer.  6 MR. WOOD: You can answer.  7 THE WITNESS: Okay. Now I -- were  8 you asking if I would have skepticism  9 about at the voracity of their --  10 BY MR. GALLINARO:  11 Q. Yeah.  12 A. I suppose, hypothetically, yes.  13 Q. So, in other words, could you  14 conceive of someone coming to see you with an  15 ulterior motive to establish facts in their  16 support if they were involved in an adversarial  17 proceeding?  18 MR. WOOD: Object to the form.  19 THE WITNESS: Should I answer?  20 MR. WOOD: Yes.  21 THE WITNESS: Again,  22 hypothetically, sure. I could conceive  23 that that would be possible.  24</p>



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<p style="text-align: right;">Page 70</p> <p>1 BY MR. GALLINARO:</p> <p>2 Q. Could you turn for me to Exhibit-7?</p> <p>3 A. Okay.</p> <p>4 ---</p> <p>5 (Whereupon the document was marked,</p> <p>6 for identification purposes, as</p> <p>7 Exhibit-7.)</p> <p>8 ---</p> <p>9 BY MR. GALLINARO:</p> <p>10 Q. This is a document that's titled,</p> <p>11 Sexual Assault Prevention at W&amp;L, Board of</p> <p>12 Trustees, October 7th, 2016, and your name, as</p> <p>13 well as Jan Kauffman's name, is listed.</p> <p>14 Do you see that?</p> <p>15 A. I do.</p> <p>16 Q. And what is the nature of this</p> <p>17 training that you presented to the board of</p> <p>18 trustees?</p> <p>19 A. I don't know that I would say it</p> <p>20 was a training as much as just sort of a</p> <p>21 presentation of -- I mean I'd have to look</p> <p>22 through it, but my recollection is that it was</p> <p>23 more of a presentation on the nature of the</p> <p>24 programming and our approach to this topic.</p>	<p style="text-align: right;">Page 72</p> <p>1 and 7, as well as two speeches at the Take Back</p> <p>2 The Night. And some of these presentations are</p> <p>3 ones that you give more than once, correct?</p> <p>4 A. Correct.</p> <p>5 Q. So would you agree that you're</p> <p>6 pretty active in this space at the W&amp;L</p> <p>7 community?</p> <p>8 A. Yes. I agree with that.</p> <p>9 Q. Do you believe that you are -- are</p> <p>10 you -- does the university consider you an</p> <p>11 authority on this topic?</p> <p>12 MR. WOOD: Object to the form.</p> <p>13 THE WITNESS: I don't know what you</p> <p>14 mean by the university.</p> <p>15 BY MR. GALLINARO:</p> <p>16 Q. Well, I guess given that you're</p> <p>17 invited to speak to the board of trustees and</p> <p>18 present trainings at university functions and</p> <p>19 for groups on campus, you're understanding that</p> <p>20 you are asked to do that because you have</p> <p>21 expertise in this area?</p> <p>22 MR. WOOD: Object to the form.</p> <p>23 THE WITNESS: Go ahead and answer,</p> <p>24 Craig?</p>
<p style="text-align: right;">Page 71</p> <p>1 Q. Okay. And who do you recall</p> <p>2 invited you to present to the board of</p> <p>3 trustees?</p> <p>4 A. I believe it was Dean Sidney Evans.</p> <p>5 Q. Have you done any other</p> <p>6 presentations to the board?</p> <p>7 A. I think I did one other time, but I</p> <p>8 don't -- yes, I did one other time present to</p> <p>9 the board.</p> <p>10 Q. When was that?</p> <p>11 A. I don't remember the year, and it</p> <p>12 was on a different topic.</p> <p>13 Q. What was the topic, if you can</p> <p>14 recall?</p> <p>15 A. It was on our diversity and</p> <p>16 inclusion efforts at Washington and Lee.</p> <p>17 Q. So unrelated to sexual assault?</p> <p>18 A. Yes.</p> <p>19 Q. We've now been through a number of</p> <p>20 trainings. We started with the six that were</p> <p>21 listed on Exhibit-1.</p> <p>22 A. Okay.</p> <p>23 Q. We reviewed training materials from</p> <p>24 four other presentations in Exhibits 2, 5, 6</p>	<p style="text-align: right;">Page 73</p> <p>1 MR. WOOD: Yes.</p> <p>2 THE WITNESS: That's good. I</p> <p>3 believe I would -- I believe it's true</p> <p>4 that there are at least some people,</p> <p>5 probably including Sidney Evans, who</p> <p>6 regard me to be among the people who have</p> <p>7 some special interest in training and</p> <p>8 authority on this topic.</p> <p>9 BY MR. GALLINARO:</p> <p>10 Q. In other words, they didn't pick</p> <p>11 you out of a hat. You were chosen to do these</p> <p>12 trainings because of your practice and your</p> <p>13 research and your knowledge; is that correct?</p> <p>14 A. Right.</p> <p>15 MR. WOOD: Object to the form.</p> <p>16 You can answer.</p> <p>17 THE WITNESS: Correct.</p> <p>18 ---</p> <p>19 (Whereupon the document was marked,</p> <p>20 for identification purposes, as</p> <p>21 Exhibit-8.)</p> <p>22 ---</p> <p>23 BY MR. GALLINARO:</p> <p>24 Q. I'd like to -- I'd like to turn now</p>

JANET BOLLER, PSYD - CONFIDENTIAL/UNDER SEAL

<p style="text-align: right;">Page 74</p> <p>1 to Exhibit-8. And I just want to confirm that</p> <p>2 this is the training, if I understand</p> <p>3 correctly, this is called, Sexual Assault</p> <p>4 Patterns and Responses, Presentation to HSMB,</p> <p>5 September 2016, Janet Boller, PsyD. I'd like</p> <p>6 to confirm that this is the training that we</p> <p>7 saw back in Exhibit-1 that you presented on --</p> <p>8 in August as well as in September to the</p> <p>9 members of the Harassment and Sexual Misconduct</p> <p>10 Board?</p> <p>11 A. Yes. I believe that this would be</p> <p>12 that training that was referred to.</p> <p>13 Q. Okay. So though this one is dated</p> <p>14 September, it would have been the same material</p> <p>15 presented in August?</p> <p>16 A. Probably so, yes.</p> <p>17 Q. You don't think you would have come</p> <p>18 up with a different slide deck for the --</p> <p>19 A. Not in a month's time, no.</p> <p>20 Q. Okay. Have you reviewed this</p> <p>21 document in preparation for your deposition?</p> <p>22 A. No.</p> <p>23 Q. Are you generally familiar with</p> <p>24 what it contains? Do you recall giving this</p>	<p style="text-align: right;">Page 76</p> <p>1 than in this August and September training?</p> <p>2 A. I don't believe so.</p> <p>3 Q. Have you done any since then, like</p> <p>4 up until the present?</p> <p>5 A. I don't think so.</p> <p>6 Q. So you've only been asked to train</p> <p>7 the board members of the HSMB on two occasions,</p> <p>8 as best you can recall?</p> <p>9 A. Correct.</p> <p>10 Q. Okay. So you would have had no</p> <p>11 reason to have updated any of this material</p> <p>12 since presenting it in 2016?</p> <p>13 A. Yeah. Right. I don't think so.</p> <p>14 Q. If you were asked to present,</p> <p>15 again, this type of training to the HSMB, is</p> <p>16 there anything that you think you would need to</p> <p>17 update in this training?</p> <p>18 A. I'm not sure that I would include</p> <p>19 this first slide after the introduction that's</p> <p>20 titled, The Study of Perpetrators, on page 689</p> <p>21 at all.</p> <p>22 Q. And why is that?</p> <p>23 A. At the time, I believe that this</p> <p>24 work had been recently discredited, but David</p>
<p style="text-align: right;">Page 75</p> <p>1 presentation?</p> <p>2 A. I generally recall giving the</p> <p>3 presentation. If you wanted me to say anything</p> <p>4 that's in there, I would take a quick look</p> <p>5 through it.</p> <p>6 Q. Sure. Did you -- did you assemble</p> <p>7 this material for these trainings in 2016</p> <p>8 specifically for this training, or is this</p> <p>9 material that you've had from previous</p> <p>10 trainings?</p> <p>11 A. I would say a little bit of both.</p> <p>12 I think if I'm speaking to a specific group, I</p> <p>13 might tailor it a little bit, including a few</p> <p>14 different or additional pieces, but there will</p> <p>15 be some, like I can already see quickly</p> <p>16 flipping through, common reactions that you</p> <p>17 would probably have seen, basically copied and</p> <p>18 pasted through a lot of my presentations. So I</p> <p>19 would say a little bit of both.</p> <p>20 Q. And I didn't recall seeing on the</p> <p>21 chart at least presentations to the HSMB</p> <p>22 members other than these two. Do you have any</p> <p>23 understanding of whether you've given this</p> <p>24 training to other members of the panel other</p>	<p style="text-align: right;">Page 77</p> <p>1 Lisak's name was fairly known in the field and</p> <p>2 was a name that I had used in the past. So I</p> <p>3 was really making that distinction that this is</p> <p>4 work that had been discredited. But now that</p> <p>5 actually feels so outdated to me, I don't think</p> <p>6 I would make reference to it at all.</p> <p>7 Q. Okay. Tell me as best you can</p> <p>8 recall what it is that you present here when</p> <p>9 you discuss A Study of Perpetrators by David</p> <p>10 Lisak.</p> <p>11 A. I would say essentially what is</p> <p>12 written in the notes section on that same page,</p> <p>13 you know, that he did this survey of, you know,</p> <p>14 college men, and the way that, you know, others</p> <p>15 in a community, either wittingly or unwittingly</p> <p>16 sometimes camouflage a perpetrator's actions,</p> <p>17 and that it sort of becomes sort of a</p> <p>18 community, kind of, problem. But again, this</p> <p>19 was -- you know, this was work that was -- his</p> <p>20 methodology was discredited essentially.</p> <p>21 Q. And you reference that it's now</p> <p>22 discredited. Do you recall when it was</p> <p>23 discredited?</p> <p>24 A. I don't.</p>



JANET BOLLER, PSYD - CONFIDENTIAL/UNDER SEAL

<p style="text-align: right;">Page 78</p> <p>1 Q. Is there a particular reason you 2 included it as the beginning of your 3 presentation to the HSMB, even though you were 4 aware it had been discredited? 5 MR. WOOD: Object to form. 6 THE WITNESS: So my recollection of 7 why I put it in here was because, again, 8 as I mentioned a minute ago, I think that 9 this was a name that had been, I believed 10 to have been sort of well known in the 11 field and could have been something even 12 that myself and others in -- at Washington 13 and Lee has used in other -- making 14 reference to him in other presentations 15 that we did. So I'm trying to be clear 16 about that with work that had been cited 17 in the past. Now, you know, we believe 18 some of this, it appears to have been 19 discredited. So I think just being clear 20 about that. 21 BY MR. GALLINARO: 22 Q. Well, you wouldn't have trained the 23 HSMB members before, so is there a reason you 24 felt you needed to address something that had</p>	<p style="text-align: right;">Page 80</p> <p>1 Q. So what were you training them 2 about perpetrators? What information did you 3 convey? 4 A. Again, I wouldn't be able to recall 5 anything in particular that I said other than 6 what I see here on the notes that are on this 7 page. 8 Q. Okay. So you would have had a 9 discussion with the panel members that there's, 10 according to the notes, a small percentage of 11 men who are responsible for a high percentage 12 of rapes; is that correct? 13 MR. WOOD: Object to form. 14 You can answer. 15 THE WITNESS: You're asking if 16 that's what I was saying about this work? 17 BY MR. GALLINARO: 18 Q. Yeah. Well, that's what the notes 19 say -- 20 A. Right. 21 Q. -- and you were saying you can't 22 remember beyond the notes, so is that an 23 accurate depiction then of what you would have 24 been presenting?</p>
<p style="text-align: right;">Page 79</p> <p>1 been included in other training materials that 2 you were recognizing was now discredited? 3 MR. WOOD: Object to form. 4 THE WITNESS: I mean, I -- I really 5 can't say specifically. I just don't 6 recall what my -- what my thought process 7 was. 8 BY MR. GALLINARO: 9 Q. Were you presenting it to the panel 10 because, even though it was discredited, you 11 felt it was still good or helpful information? 12 A. I don't recall. 13 Q. And the study that David Lisak 14 performed was a study of only male 15 perpetrators, correct? 16 A. Yes. 17 Q. And did you, in presenting the 18 materials associated with this slide, did you 19 train the hearing panel members on what are the 20 characteristics of perpetrators? Is that 21 something that you gleaned from this study? 22 A. No, not necessarily. I didn't feel 23 that I was trying to train them on any 24 particular characteristics of perpetrators, no.</p>	<p style="text-align: right;">Page 81</p> <p>1 A. If that's what that says here, yes. 2 I didn't catch the exact part you were reading 3 from, but... 4 Q. The following page, 690, if you 5 could turn to that. 6 A. Yes. 7 Q. You trained the panel members on 8 the effects of trauma; is that correct? 9 A. Yes. 10 Q. I know we've discussed, sort of, 11 your understanding of trauma and what it's 12 based upon. Is there any other research that 13 we haven't already discussed that would have 14 informed your preparation of the material in 15 this slide? 16 A. Not -- again, not by anyone's, 17 like, particular name, but there were, you 18 know, there are -- again, there are notes that 19 I would take from conferences or presentations 20 I attended with experts, again, whose names I 21 don't remember, that possibly would have 22 informed this type of -- the type of 23 information that's on this, that's on this 24 slide and in the notes here.</p>

JANET BOLLER, PSYD - CONFIDENTIAL/UNDER SEAL

<p style="text-align: right;">Page 82</p> <p>1 Q. Okay. If you look towards the 2 bottom of the page, you have, again, some 3 notes. Is it your practice that where you 4 have, like, more information to present on a 5 slide, you include notes on the bottom to help 6 you through that slide? 7 A. Yeah. Those are really notes for 8 myself. Not that I -- I don't read them word 9 for word, and I don't share them, you know, 10 necessarily with the audience. It's really 11 just to help me remember what were some of the 12 things that I was going to be sharing. 13 Q. So if we're seeing notes on a 14 slide, it's more likely that that's a slide 15 where you're spending a little bit more time? 16 MR. WOOD: Object to form. 17 BY MR. GALLINARO: 18 Q. Is that correct? 19 A. I don't know that it means -- that 20 it refers to how much time I spent, just to 21 help me remember the different things I want to 22 say. Some slides that may be more self-evident 23 of what needed to be discussed. I don't think 24 it would refer to the amount of time.</p>	<p style="text-align: right;">Page 84</p> <p>1 you remember before, I asked you if you would 2 have updated anything in the training. Is that 3 something you still would present if you were 4 including a training today? 5 A. These statements that you just read 6 to me, would I include those in a training? 7 Q. Yes. 8 A. In a training to a hearing board in 9 particular or in general? 10 Q. Yeah, to a hearing board. 11 A. I mean that's just hard to say 12 since I haven't been asked to do that. I stand 13 by those statements. 14 Q. Okay. And those statements, in the 15 context of a sexual misconduct proceeding, 16 those would only apply to the accuser, correct, 17 because the accuser is the only person that 18 could be the victim? 19 MR. WOOD: Object to the form. 20 THE WITNESS: I mean I wouldn't -- 21 I wouldn't know if the respondent in a 22 situation like that had also experienced 23 trauma. I mean that's certainly possible. 24</p>
<p style="text-align: right;">Page 83</p> <p>1 Q. The fifth note -- I guess I'll call 2 paragraph -- starts with the phrase "Trauma 3 victims, paren, not just sexual assault, will 4 make statements that are incomplete and 5 inconsistent partly due to effects of trauma 6 itself." 7 A. Yes. I see that. 8 Q. "This can make us question 9 credibility but should not." 10 Do you see that? 11 A. I do. 12 Q. This is -- and this is part of the 13 training that you provide to the people who are 14 going to adjudicate Title IX sexual misconduct 15 cases? 16 A. I'm sorry, is that a -- did you ask 17 me a question? 18 Q. Yes. I'm just confirming that 19 that's the -- 20 A. Oh, confirming. 21 Q. -- information you're presenting to 22 adjudicators? 23 A. Yes. Confirming, yes. 24 Q. Is that something that you -- do</p>	<p style="text-align: right;">Page 85</p> <p>1 BY MR. GALLINARO: 2 Q. Well, in a case where there wasn't, 3 sort of, competing, you know, cross claims, 4 where one student accused another of sexual 5 assault, if we're going to be understanding 6 your training about how to assess the two 7 students' credibility, this would apply to the 8 accuser and not to the respondent, correct? 9 A. So I'm not training anyone in how 10 to assess credibility. That's absolutely not 11 my domain. Just to clarify that. But -- 12 Q. Why do you say that it could make 13 us question credibility but should not -- 14 MR. WOOD: She didn't finish her 15 answer, Andy. Let her finish her answer. 16 MR. GALLINARO: Okay. I'm sorry, I 17 didn't realize. Go ahead. 18 MR. WOOD: She was still talking. 19 THE WITNESS: I don't remember. 20 Now I don't remember what -- you had -- 21 you had sort of framed the question by 22 saying assessing or training on 23 credibility, and you had asked me -- I 24 think there was a second part to that</p>

JANET BOLLER, PSYD - CONFIDENTIAL/UNDER SEAL

<p style="text-align: right;">Page 86</p> <p>1 question.</p> <p>2 BY MR. GALLINARO:</p> <p>3 Q. Sure. We'll try to retread that</p> <p>4 ground. You're providing a training here to</p> <p>5 adjudicators, and you're referencing a fact</p> <p>6 about trauma that you believe would not --</p> <p>7 should not affect someone's credibility.</p> <p>8 And my question to you was: In a</p> <p>9 situation where there was not cross claims</p> <p>10 between two students, where one student accused</p> <p>11 another student of sexual assault, that this</p> <p>12 training then, would only apply to the accuser</p> <p>13 because they're the ones who are potentially</p> <p>14 traumatized.</p> <p>15 A. I see. Right. Okay. I agree with</p> <p>16 that. I would say that, more or less, that if</p> <p>17 I'm talking about the trauma victims and that,</p> <p>18 in the case that is being, you know, heard,</p> <p>19 that if one of them is not claiming that and</p> <p>20 the other is, that we're talking about the</p> <p>21 person who is. That's what I'm referring to.</p> <p>22 Q. Okay. And do you agree with me</p> <p>23 that more often than not in Title IX</p> <p>24 proceedings, the accuser is a female?</p>	<p style="text-align: right;">Page 88</p> <p>1 something that actually happened to you than to</p> <p>2 keep straight something that you made up?</p> <p>3 MR. WOOD: Object to the form.</p> <p>4 THE WITNESS: I mean, again, I'm</p> <p>5 not, sort of, an expert in that, but I</p> <p>6 would say that most people in a common</p> <p>7 sense way would agree with that.</p> <p>8 BY MR. GALLINARO:</p> <p>9 Q. Okay. Do you agree with me that a</p> <p>10 more commonly understood method of determining</p> <p>11 whether someone is being truthful with you is</p> <p>12 whether they claim to remember more details of</p> <p>13 an event later in time than they did closer in</p> <p>14 time to the evident?</p> <p>15 MR. WOOD: Object to the form.</p> <p>16 THE WITNESS: I think I got tripped</p> <p>17 up on what you're saying which would be</p> <p>18 more credible if it was sooner or later.</p> <p>19 BY MR. GALLINARO:</p> <p>20 Q. I'll give you a -- I'll give you a</p> <p>21 hypothetical just to try to paint a clearer</p> <p>22 picture. If you asked me what did I have for</p> <p>23 breakfast this morning, and I said, you know, I</p> <p>24 can't -- honestly, that's weird, I can't</p>
<p style="text-align: right;">Page 87</p> <p>1 MR. WOOD: Object to the form.</p> <p>2 THE WITNESS: You know, I am not</p> <p>3 aware of all the claims that come before a</p> <p>4 Title IX Hearing Board. The general data</p> <p>5 nationally would support that there are</p> <p>6 more women who experience this.</p> <p>7 BY MR. GALLINARO:</p> <p>8 Q. Okay. Would you agree with me</p> <p>9 that -- let's sort of just step away from the</p> <p>10 Title IX setting and just --</p> <p>11 A. Okay.</p> <p>12 Q. -- sort of, the common sense.</p> <p>13 Would you agree with me that one of the more</p> <p>14 common sense or common understandings that</p> <p>15 people have if you're trying to assess</p> <p>16 someone's credibility is whether they're able</p> <p>17 to keep their stories straight?</p> <p>18 MR. WOOD: Object to the form.</p> <p>19 THE WITNESS: I would guess that</p> <p>20 most people would agree with that</p> <p>21 statement.</p> <p>22 BY MR. GALLINARO:</p> <p>23 Q. And that's generally because, would</p> <p>24 you agree, that it's easier to remember</p>	<p style="text-align: right;">Page 89</p> <p>1 remember. I don't remember what I had for</p> <p>2 breakfast this morning. And then we were</p> <p>3 having a conversation next month, and you said,</p> <p>4 do you remember what you had for breakfast on</p> <p>5 August 12, and I said you know, strangely</p> <p>6 enough, I do because it was such an incredible</p> <p>7 breakfast. It was a monumental breakfast that</p> <p>8 I had. I never had any other breakfast like</p> <p>9 that breakfast. It was the best breakfast I</p> <p>10 ever had. Wouldn't you question, well, you</p> <p>11 didn't remember it that day and now you're</p> <p>12 saying it's this monumental event a month</p> <p>13 later? Wouldn't you question whether that</p> <p>14 memory was accurate?</p> <p>15 A. I would want to know --</p> <p>16 MR. WOOD: Object to the form.</p> <p>17 THE WITNESS: I would want to know,</p> <p>18 yeah, what helped you remember it from the</p> <p>19 time -- you know, memory is this sort of</p> <p>20 thing that if you had remembered it later</p> <p>21 that day because of different triggers,</p> <p>22 you know, different areas of the brain</p> <p>23 really will remember or resonate, you</p> <p>24 know, with different things. If you</p>

JANET BOLLER, PSYD - CONFIDENTIAL/UNDER SEAL

Page 90	Page 92
<p>1 smelled something later and say, ah, yes, 2 I remember that it was eggs. Now I 3 remember that. A month later with no 4 other sort of context that would have 5 helped you remember that, that doesn't 6 seem very credible. 7 BY MR. GALLINARO: 8 Q. Sure. So in most -- in most 9 contexts, without some sort of the external 10 assistance or triggering, you would agree with 11 me that people's memories don't generally 12 improve over time; you usually remember less 13 and less details of something over time? 14 MR. WOOD: Object to the form. 15 THE WITNESS: Yeah. I'm not sure 16 that I would go that far to say that 17 that's always true. 18 BY MR. GALLINARO: 19 Q. Just as a general matter, I'm not 20 saying always. 21 MR. WOOD: Object to the form. 22 BY MR. GALLINARO: 23 Q. You wouldn't agree with that as a 24 general matter, our memories don't improve with</p>	<p>1 earlier with the Department of Criminal Justice 2 Services where there were investigators, you 3 know, detectives, people associated with the 4 law enforcement field and the job of 5 investigating, where they were talking about 6 this becoming more of a standard, that close to 7 a traumatic event, that, for example, it was 8 common practice to -- it was becoming more 9 common practice to allow someone to have two 10 sleep cycles before you would expect to have a 11 more complete version of their memory or of the 12 situation. 13 So that's sort of what I'm 14 referring to that, initially, especially -- and 15 I wouldn't be able to give exact time frames. 16 That's not something I'm aware of or have read 17 anything recently on that, but that especially 18 close to the time of a trauma, that the way our 19 memory is encoded and formed, how we remember 20 may be more in bits and pieces or particular to 21 like certain senses rather than others, like a 22 smell or like, you know, an image, rather than 23 like a full narrative story, the way we, you 24 know, tend to expect things to be very</p>
Page 91	Page 93
<p>1 time? 2 MR. WOOD: Object to the form. 3 THE WITNESS: I mean, I guess I 4 just can't think of enough examples to say 5 that definitively but, you know, possibly 6 so. 7 BY MR. GALLINARO: 8 Q. Okay. And if you'll turn to page 9 693. Let me know when you're there. 10 A. I am. 11 Q. There's a bullet point there where 12 you continue on with reactions of someone who's 13 experienced trauma as an evolving narrative of 14 events. 15 A. Yes. 16 Q. I assume that means their 17 description of what happened to them changes 18 over time? 19 A. Yes. That refers to, typically, 20 closer to the time of the event, not like 21 months down the road, and it has become 22 standard practice, or it is becoming, I should 23 say, with investigators. And this I remember 24 coming up in that training you referred to</p>	<p>1 sequential with lots of detail, that that may 2 not be true for someone who has experienced a 3 trauma. And that it's the trauma itself and 4 the way that it affects the brain, the way that 5 it affects the formation of memory that would 6 be responsible for that. 7 Q. Okay. Sorry about the echo again. 8 Is that part of the information 9 that you provide as you're presenting these 10 materials, that understanding of what an 11 evolving narrative of events could mean? 12 A. I might have said something. I 13 don't recall specifically, but what I just said 14 to you might have been the type of thing that I 15 would say to explain that bullet point. 16 Q. Okay. So when you're giving these 17 kind of observations to the panel members that 18 trauma victims can make incomplete and 19 inconsistent statements because of the trauma 20 and that their story could evolve because of 21 the trauma, is your intent in letting panel 22 members know that so that they will not employ 23 the kind of common sense approaches to how we 24 typically assess whether someone's being</p>

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<p style="text-align: right;">Page 94</p> <p>1 truthful that you and I just discussed?</p> <p>2 A. I'm certainly not asking them to</p> <p>3 give way to common sense, definitely not, but</p> <p>4 rather to point out that someone who has</p> <p>5 experienced trauma, that's not -- that's not</p> <p>6 something most people in a common sense way</p> <p>7 know about. I mean I don't think that the</p> <p>8 particularities that we know about trauma and</p> <p>9 the way it affects people is common sense. So</p> <p>10 I think it's to just sort of fill out that</p> <p>11 picture. And to recognize that it wouldn't be</p> <p>12 inconsistent, right, with how someone</p> <p>13 presented, not to say that something happened</p> <p>14 or didn't happen, but to say that it wouldn't</p> <p>15 be inconsistent if you saw these types of</p> <p>16 things.</p> <p>17 Q. Right. So you want adjudicators to</p> <p>18 understand that, although you might normally</p> <p>19 question someone who is unable to keep their</p> <p>20 stories straight, in an instance where someone</p> <p>21 has been traumatized, that is not necessarily</p> <p>22 an indicator that they're not being truthful?</p> <p>23 MR. WOOD: Object to form.</p> <p>24 THE WITNESS: I don't think it's so</p>	<p style="text-align: right;">Page 96</p> <p>1 an indication that they're a victim of trauma?</p> <p>2 MR. WOOD: Object to the form.</p> <p>3 THE WITNESS: Again, I'm not sure</p> <p>4 that I'm advising them. I don't know what</p> <p>5 they take from the presentations that I</p> <p>6 give. From a clinical perspective, I'm</p> <p>7 letting them know that some degree of</p> <p>8 inconsistency in that someone has filled</p> <p>9 in a gap later, would not necessarily mean</p> <p>10 that someone was being untruthful.</p> <p>11 BY MR. GALLINARO:</p> <p>12 Q. Well, when you say in your note</p> <p>13 here, "This can make us question credibility,</p> <p>14 but should not," is that something you think</p> <p>15 you stated during the presentation?</p> <p>16 MR. WOOD: Object to the form.</p> <p>17 THE WITNESS: I don't know that I</p> <p>18 read that. Again, I don't typically read</p> <p>19 from my notes. I'm someone who really</p> <p>20 likes to look up and make eye contact.</p> <p>21 Those are for me. I may or may not have</p> <p>22 said those words out loud, but I think</p> <p>23 that, yeah, it doesn't necessarily mean</p> <p>24 what the person said is not credible. I</p>
<p style="text-align: right;">Page 95</p> <p>1 much that they can't keep their story</p> <p>2 straight, but that from the time they</p> <p>3 first said something until questions that</p> <p>4 may have been asked of them later in the</p> <p>5 process, there could have been other</p> <p>6 details that were filled in. So, yes, I</p> <p>7 suppose I'm letting the panel members know</p> <p>8 that from a clinical perspective, from</p> <p>9 someone who is the treatment provider,</p> <p>10 someone who diagnoses and assesses, that</p> <p>11 that would not be inconsistent.</p> <p>12 BY MR. GALLINARO:</p> <p>13 Q. Well, there's statements that, you</p> <p>14 know, I think as you were referring to, that</p> <p>15 someone would make that were incomplete but</p> <p>16 they filled in later, and then there's your</p> <p>17 reference to inconsistent statements, which</p> <p>18 would mean they're saying something at one</p> <p>19 point that conflicts with something they said</p> <p>20 at a different point.</p> <p>21 So how is it that -- I mean, aren't</p> <p>22 you advising the panel members that you</p> <p>23 shouldn't hold it against someone if they're</p> <p>24 being inconsistent because that could just be</p>	<p style="text-align: right;">Page 97</p> <p>1 think you have to take into account the</p> <p>2 whole picture and all of the other</p> <p>3 factors.</p> <p>4 BY MR. GALLINARO:</p> <p>5 Q. So earlier when we were talking</p> <p>6 about how this would apply to accusers because</p> <p>7 they're the ones in the circumstance of being</p> <p>8 potentially traumatized. So would you agree</p> <p>9 with me that, in your training, adjudicators</p> <p>10 are taught to evaluate inconsistency in</p> <p>11 testimony differently depending on whether the</p> <p>12 person is an accuser or a respondent?</p> <p>13 A. I don't know how they're being</p> <p>14 trained to evaluate those two different pieces</p> <p>15 of information. I mean, I don't know how -- I</p> <p>16 don't know what other training they receive on</p> <p>17 what they would need from a respondent's point</p> <p>18 of view. I'm really there as the person</p> <p>19 talking, again clinically, what presentation</p> <p>20 would look like for someone who may have</p> <p>21 experienced a traumatic event.</p> <p>22 Q. All right. When you were -- when</p> <p>23 you provided this training, it was -- you</p> <p>24 co-trained it with Lauren Kozak, correct?</p>



JANET BOLLER, PSYD - CONFIDENTIAL/UNDER SEAL

<p style="text-align: right;">Page 98</p> <p>1 A. I think maybe -- did it say that on 2 the calendar that you showed me in Exhibit-1? 3 Her name is not on this presentation that I'm 4 looking at here. 5 Q. Yeah. It was in the, if you want 6 to look back, it's page 14 of Exhibit-1 -- 7 A. Okay. 8 Q. -- as well as page 16 of 9 Exhibit-1 -- 10 A. Okay. Yeah, okay. We -- 11 Q. -- listed. 12 A. So, okay. I don't know what 13 your -- sorry. So now I'm not sure what your 14 question was. Her name isn't on the 15 presentation itself. 16 Q. Sure. Just that this is a 17 presentation that you provide during training 18 that's being presented where others are also 19 presenting information, correct? 20 A. Correct, yes. 21 Q. And one of those people was Lauren 22 Kozak? 23 A. Yes. 24 Q. Are you present or are you invited</p>	<p style="text-align: right;">Page 100</p> <p>1 I actually don't remember if I was present for 2 Lauren's portion. 3 Q. Did you work with Lauren at all at 4 putting together a slide deck? 5 A. Not that I recall. 6 Q. If the content of this -- this 7 slide deck that we're looking at in Exhibit-8 8 was also in a slide deck of Lauren Kozak's for 9 the same training, do you have any 10 understanding as to how that would have 11 happened? 12 A. Oh. Then, okay, we probably shared 13 it, but I don't -- I mean I just don't recall. 14 I wouldn't have not shared with her, you know, 15 the information that I was preparing or 16 planning to present. So I'm sure I shared it 17 with her. 18 Q. Do you recall whether you 19 collaborated with her on what she would cover 20 and what you would cover in the training? 21 A. I don't recall whether we 22 collaborated. My recollection is that she 23 would have been one of the people inviting me 24 to do a presentation. And she may have, sort</p>
<p style="text-align: right;">Page 99</p> <p>1 into the room to provide your portion and then 2 you're asked to leave the room when your 3 portion is done? 4 A. Over the years in the different 5 presentations I've done, I've done both. There 6 are times where I have a conflict and I can't 7 stay, and I don't. There are times where I've 8 heard Lauren present. I honestly have no idea 9 if I was present that day for hers. 10 Q. I'm just talking about these two 11 trainings in particular, because these are the 12 only two times you've ever trained the HSMB. 13 A. Right. 14 Q. All right. Do you recall, in the 15 only two times that you've trained the HSMB, 16 whether you were present for the entire 17 training or whether you only came in for your 18 portion and then left upon completing it? 19 A. I definitely wasn't present for the 20 entire training. I feel like they were there 21 for a large part of the days and hours, and it 22 looked like even in the calendar you showed, 23 there were different presentations. So I was 24 certainly not there for the entirety. And, no,</p>	<p style="text-align: right;">Page 101</p> <p>1 of, then provided the scope for me of what she 2 was, you know, why she was asking me to come, 3 but I don't remember a collaboration, per se. 4 Q. And you don't recall that her 5 portion of the training included a discussion 6 of how to assess credibility in general? 7 MR. WOOD: Object to the form. 8 THE WITNESS: I don't recall. 9 BY MR. GALLINARO: 10 Q. When you talk about the impact of 11 trauma and how it can affect credibility, is it 12 your position that if someone is inconsistent 13 or they're demonstrating an evolving narrative 14 that that adds to their credibility because it 15 reflects that they are likely the victim of 16 trauma, or are you suggesting that it just 17 shouldn't be a negative? 18 MR. WOOD: Object to the form. 19 THE WITNESS: I'm not saying it 20 adds -- sorry. I'm not saying it adds to 21 the credibility, no. I'm saying it just 22 shouldn't be disregarded as -- it 23 shouldn't be disregarded. 24</p>

JANET BOLLER, PSYD - CONFIDENTIAL/UNDER SEAL

<p style="text-align: right;">Page 102</p> <p>1 BY MR. GALLINARO:</p> <p>2 Q. Okay. So it shouldn't detract from</p> <p>3 someone's credibility?</p> <p>4 MR. WOOD: Object to the form.</p> <p>5 THE WITNESS: That's -- that's what</p> <p>6 I would say, that I wouldn't think that it</p> <p>7 would detract from credibility.</p> <p>8 BY MR. GALLINARO:</p> <p>9 Q. Does your training include anything</p> <p>10 of a similar nature with regard to respondents?</p> <p>11 A. Training I've received or training</p> <p>12 I have provided?</p> <p>13 Q. Training that you would provide.</p> <p>14 Do you address any kind of similar concepts,</p> <p>15 for example, on behaviors you might normally</p> <p>16 think would make someone's story less credible</p> <p>17 but that, given the circumstance the person is</p> <p>18 in, we should not?</p> <p>19 A. Not exactly that. Although I think</p> <p>20 I have been asked on occasion by -- I can't say</p> <p>21 that it was at this presentation to the Hearing</p> <p>22 Board, right, but maybe from students, you</p> <p>23 know, how do you respond to a peer maybe who's</p> <p>24 come and said that they have been accused, you</p>	<p style="text-align: right;">Page 104</p> <p>1 natural reactions when someone has been</p> <p>2 accused, especially if they feel wrongly</p> <p>3 accused.</p> <p>4 Q. Would you -- would you agree with</p> <p>5 me that it could be traumatic to be falsely</p> <p>6 accused of rape?</p> <p>7 MR. WOOD: Object to the form.</p> <p>8 THE WITNESS: On the surface, I</p> <p>9 wouldn't necessarily believe that that</p> <p>10 would classify as a trauma, just the</p> <p>11 accusation.</p> <p>12 BY MR. GALLINARO:</p> <p>13 Q. Okay. If someone -- if someone</p> <p>14 were, and assume for me for purposes of these</p> <p>15 questions that it is a false allegation, a</p> <p>16 flagrantly false allegation against someone.</p> <p>17 A. Okay. I'll assume that it's a</p> <p>18 false allegation; that's what you're asking me</p> <p>19 to assume?</p> <p>20 Q. Yes.</p> <p>21 A. Okay.</p> <p>22 Q. If someone were falsely accused of</p> <p>23 rape and then were going to be put through, you</p> <p>24 know, a proceeding to determine whether that</p>
<p style="text-align: right;">Page 103</p> <p>1 know, and how do you support that person? And</p> <p>2 so I have answered questions about that. But I</p> <p>3 wouldn't say that I've -- I don't recall being</p> <p>4 part of a discussion or a presentation</p> <p>5 regarding credibility of someone who's been</p> <p>6 accused.</p> <p>7 Q. And if you'll look quickly at page</p> <p>8 694 of this slide deck in Exhibit-8, we see</p> <p>9 here a slide describing possible reactions of</p> <p>10 the respondent. Could you read those?</p> <p>11 A. Sure. "Scared, angry, confused,</p> <p>12 defensive, sad."</p> <p>13 Q. And there are no notes associated</p> <p>14 with this slide that discuss how any of that</p> <p>15 may impact on a respondent's credibility,</p> <p>16 correct?</p> <p>17 A. Correct.</p> <p>18 Q. Do you -- do you discuss that at</p> <p>19 all?</p> <p>20 A. Do I discuss what, the slide?</p> <p>21 Q. Whether any of these reactions in</p> <p>22 any way bear upon credibility of a respondent.</p> <p>23 A. I don't recall discussing it in</p> <p>24 terms of credibility, just that those would be</p>	<p style="text-align: right;">Page 105</p> <p>1 was true and there would be serious</p> <p>2 consequences if it were, do you think that that</p> <p>3 would be traumatic for the person that was</p> <p>4 falsely accused?</p> <p>5 MR. WOOD: Object to the form.</p> <p>6 THE WITNESS: It would be hard to</p> <p>7 say. You know, that's a diagnose -- I</p> <p>8 mean, trauma can be used as a formal</p> <p>9 diagnosis, right, in the form of Post</p> <p>10 Traumatic Stress Disorder, PTSD, or Acute</p> <p>11 Stress Disorder. So without, sort of,</p> <p>12 really knowing how all of that sort of</p> <p>13 played out for that particular person, I</p> <p>14 wouldn't be in a position to say that it</p> <p>15 would be a diagnosis for sure. Is it</p> <p>16 possible that that whole experience felt</p> <p>17 traumatic to an individual? Again,</p> <p>18 depending on all the particularities of</p> <p>19 that, I would say I guess that's possible.</p> <p>20 BY MR. GALLINARO:</p> <p>21 Q. But there's nothing in your</p> <p>22 training, at least that I can see, that would</p> <p>23 address the possible impact of the trauma of</p> <p>24 being falsely accused; am I correct?</p>



JANET BOLLER, PSYD - CONFIDENTIAL/UNDER SEAL

<p style="text-align: right;">Page 106</p> <p>1 MR. WOOD: Object to the form.</p> <p>2 BY MR. GALLINARO:</p> <p>3 Q. You just don't address that topic</p> <p>4 in your training?</p> <p>5 A. I don't address that, correct.</p> <p>6 Q. Back on page 690, the Exhibit-8.</p> <p>7 A. Yes.</p> <p>8 Q. The very last note says, "The</p> <p>9 perp's story may seem more clear and less</p> <p>10 ambiguous possibly because it's true, dot, dot,</p> <p>11 dot." Why the trailing ellipsis at the end of</p> <p>12 that statement?</p> <p>13 A. Possibly because it's true. You</p> <p>14 know, I don't know anymore than that. I</p> <p>15 wouldn't want to say that their story is more</p> <p>16 clear and less ambiguous because it's not true.</p> <p>17 I don't know. It's possibly because it's true.</p> <p>18 That's one explanation for that. And, again,</p> <p>19 I'm not really -- I wasn't really focusing the</p> <p>20 training on the experiences of the respondent.</p> <p>21 That wasn't like the thrust of the</p> <p>22 presentation.</p> <p>23 Q. Do you refer to the respondent as a</p> <p>24 perpetrator?</p>	<p style="text-align: right;">Page 108</p> <p>1 BY MR. GALLINARO:</p> <p>2 Q. Sure. Your training, according to</p> <p>3 this note, is that someone who is possibly a</p> <p>4 perpetrator, may, nevertheless, still seem more</p> <p>5 clear and less ambiguous than the victim?</p> <p>6 A. I mean, yes, saying --</p> <p>7 MR. WOOD: Object to the form.</p> <p>8 THE WITNESS: I'm saying that it</p> <p>9 could be, given the above, right, given</p> <p>10 that some -- someone who's experienced</p> <p>11 trauma may have incomplete information to</p> <p>12 report based on the trauma itself and the</p> <p>13 way the brain processes, et cetera, that</p> <p>14 we talked about before, it may in contrast</p> <p>15 seem like a respondent's story is more</p> <p>16 clear and sort of less ambiguous or more</p> <p>17 consistent. I'm not saying that that's</p> <p>18 always the case. I'm saying that may be</p> <p>19 true especially in contrast to the above.</p> <p>20 BY MR. GALLINARO:</p> <p>21 Q. Okay. So just to sort of be clear</p> <p>22 about the way that we're addressing how we</p> <p>23 evaluate accusers and respondents, according to</p> <p>24 your training, accusers should be given a</p>
<p style="text-align: right;">Page 107</p> <p>1 A. Not in the presentation.</p> <p>2 Q. So the note, you wouldn't have</p> <p>3 repeated the phrase "perp"?</p> <p>4 A. Very unlikely.</p> <p>5 Q. Okay. And that would -- why would</p> <p>6 that be? Why would it be unlikely that you</p> <p>7 would have repeated that?</p> <p>8 A. I'm usually pretty careful about</p> <p>9 how I'm going to characterize people. I think</p> <p>10 even over time, I have removed words like</p> <p>11 victim from my presentations and just talk</p> <p>12 about what people experience, rather than like</p> <p>13 a label. And I don't think perpetrator is</p> <p>14 usually -- implies a determination that I don't</p> <p>15 know to be true. It's just not language that I</p> <p>16 would typically use when I'm giving a</p> <p>17 presentation or talking about it.</p> <p>18 Q. And someone who's potentially a</p> <p>19 perpetrator, it's your training that their</p> <p>20 story, nevertheless, may seem more clear and</p> <p>21 less ambiguous than the victim's; is that</p> <p>22 correct?</p> <p>23 MR. WOOD: Object to the form.</p> <p>24 THE WITNESS: Can you repeat that?</p>	<p style="text-align: right;">Page 109</p> <p>1 little latitude for incomplete, inconsistent</p> <p>2 and evolving stories, but respondents should be</p> <p>3 viewed with suspicion even if their stories are</p> <p>4 more clear and less ambiguous?</p> <p>5 A. I do not believe --</p> <p>6 MR. WOOD: Object to the form.</p> <p>7 THE WITNESS: I don't believe</p> <p>8 that's what I'm saying.</p> <p>9 BY MR. GALLINARO:</p> <p>10 Q. Okay. Do you believe that the</p> <p>11 training we've been discussing about how trauma</p> <p>12 impacts an accuser's ability to recall events,</p> <p>13 things of that nature that we've just been</p> <p>14 discussing, do you believe that represents the</p> <p>15 current understanding of trauma within your</p> <p>16 field?</p> <p>17 MR. WOOD: Object to the form.</p> <p>18 THE WITNESS: My most recent review</p> <p>19 of, sort of, the field and the literature</p> <p>20 in that would say that this is largely</p> <p>21 consistent currently.</p> <p>22 BY MR. GALLINARO:</p> <p>23 Q. Any aspect of it that you feel is</p> <p>24 not consistent?</p>

JANET BOLLER, PSYD - CONFIDENTIAL/UNDER SEAL

<p style="text-align: right;">Page 110</p> <p>1 A. I mean, again, I couldn't say 2 definitively. I have not looked at that 3 research -- I don't remember when the last time 4 was. Nothing that is jumping out at me that I 5 would say seems inconsistent. 6 MR. GALLINARO: I'm going to change 7 topics now, and I think we've been going 8 for about another hour so good time for a 9 rest? Why don't we take about ten minutes 10 this time? 11 --- 12 (A short recess was taken.) 13 --- 14 BY MR. GALLINARO: 15 Q. All right. Before the break, we 16 were going over your slide deck on the 17 presentation that you gave to the HSMB, and we 18 were talking generally about common sense ways 19 people view credibility and then comparing it 20 to some of the materials that you present on. 21 And is it your view that the 22 subject matter of trauma and how it can impact 23 a person is generally not within lay people's 24 common understanding?</p>	<p style="text-align: right;">Page 112</p> <p>1 people who are recognized as having -- 2 A. I see. 3 Q. -- expertise in that subject 4 matter. 5 A. I'm sorry. Okay. So I was 6 referring just to sexual misconduct and all the 7 presentations I do on that topic. Trauma 8 specifically, I suppose -- I guess -- I don't 9 think I know of anyone else at the university 10 who's been asked -- who works at the university 11 who's been asked to speak on that. 12 Q. We discussed earlier that your 13 practice is exclusively devoted to students; is 14 that correct? 15 A. At Washington and Lee, yes, that's 16 correct. 17 Q. And you don't have any additional 18 private practice going on; this is your 19 full-time gig, right? 20 A. That's correct. 21 Q. Okay. Excluding the current, you 22 know, moment where I'm assuming you're not 23 seeing any students, during a typical semester, 24 how frequently are you meeting the students?</p>
<p style="text-align: right;">Page 111</p> <p>1 MR. WOOD: Object to the form. 2 THE WITNESS: I mean, I don't -- I 3 don't know what lay people know, but I 4 don't know that the everyday person has an 5 understanding of trauma. 6 BY MR. GALLINARO: 7 Q. Okay. And as we discussed, you 8 feel that you have expertise in that area, and 9 that's why you're invited to speak to the 10 various organizations you do, including the 11 HSMB; is that correct? 12 A. I don't know if other people regard 13 me as an expert or not. I do know that I'm 14 invited and I'm among the people who are 15 believed to have some background and training 16 on this topic, and that's why I'm invited. 17 Q. And who are the other people that 18 are invited to speak on that topic? 19 A. Well, on the broad topic, Lauren 20 Kozak often presents to these same groups that 21 I do. 22 Q. Okay. But just referring to 23 trauma. I thought I understood you to say, 24 with regard to that topic, you're among other</p>	<p style="text-align: right;">Page 113</p> <p>1 A. I mean every day, five days a week 2 that I'm in the office. 3 Q. Okay. So it's a -- it's a busy 4 practice that you have despite the fact that 5 it's limited to a small population of students? 6 A. Yes. 7 Q. And it's busy enough where you feel 8 that you see students almost every day, if not 9 every day? 10 A. Yes. 11 Q. Okay. I want to turn now to the 12 letter that you prepared for [REDACTED] and 13 that's at Exhibit-10. 14 A. Okay. Exhibit-10, oh, I see. 15 Okay. I have it. 16 --- 17 (Whereupon the document was marked, 18 for identification purposes, as 19 Exhibit-10.) 20 --- 21 BY MR. GALLINARO: 22 Q. Okay. And I'm sorry, earlier when 23 I said that you see students almost every day, 24 I think we both understood I didn't mean you</p>

JANET BOLLER, PSYD - CONFIDENTIAL/UNDER SEAL

<p style="text-align: right;">Page 114</p> <p>1 just see them around, like they see you for 2 counseling, correct? 3 A. I see students for appointments 4 every day when we're in session for classes. 5 Q. Okay. All right. So this letter 6 you submitted on behalf of [REDACTED] in the 7 first sentence, you mention that you first met 8 with her on March 24th, 2017, and that she was 9 referred to you for counseling by Lauren Kozak, 10 and then you say, "We have met on two 11 occasions"; is that correct? 12 A. Yes. 13 Q. Okay. During the two meetings that 14 you had with her, did you take notes? 15 A. Yes. 16 Q. Do your notes of those meetings 17 still exist? 18 A. Yes. 19 Q. I'd ask you to, please, make sure 20 that those are preserved as we will likely be 21 requesting them from counsel. 22 A. Okay. 23 Q. I want to see if we can just 24 establish, as best we can, a timeline for the</p>	<p style="text-align: right;">Page 116</p> <p>1 Q. Okay. Did they -- were they, sort 2 of, consistent with your normal -- I mean do 3 you have a normal length of session if someone 4 is coming to see you? Do you have an 5 appointment -- 6 A. Yes. 7 Q. -- time window? 8 A. Sure. 9 Q. What would the typical time window 10 be for an appointment? 11 A. It typically would be between 45 12 minutes to an hour. 13 Q. Okay. Do you have any reason to 14 believe that meetings with her wouldn't have 15 been consistent with that? 16 A. No. 17 Q. Did you review your notes of the 18 meetings you had with her in preparation for 19 your deposition? 20 A. No. 21 Q. When's the last time you looked at 22 them, if you can recall? 23 A. I have no idea. I mean it's been a 24 long time.</p>
<p style="text-align: right;">Page 115</p> <p>1 two meetings. You state in here the first 2 meeting was on March 24th? 3 A. Okay. 4 Q. The letter is dated April 13th. So 5 do you know when between the first meeting and 6 the letter you saw her for the second time? 7 A. I have no idea. 8 Q. Okay. She had reached out to you 9 to ask you to prepare this letter. 10 Did you see her the second time as 11 a result of that request or had you already 12 seen her and were able to prepare this letter 13 based on the two times you had already seen 14 her? 15 A. I don't recall. 16 Q. Okay. About how long was each 17 meeting with her? 18 A. I don't recall without looking at 19 my notes. 20 Q. Okay. Do you have those available 21 to you? 22 A. Right now? 23 Q. Yeah. 24 A. No.</p>	<p style="text-align: right;">Page 117</p> <p>1 Q. Would you have had any reason to 2 look at them again after you prepared this 3 letter? 4 A. After I had prepared the letter, 5 they would have been in her chart and that was 6 an active chart. 7 Q. So did you continue seeing her for 8 counseling after this date of this letter? 9 A. I did. 10 Q. Okay. And you have notes of those 11 meetings as well? 12 A. Yes. 13 Q. About how long did you continue 14 seeing her? 15 A. I really don't recall the duration 16 or frequency of our time together after these 17 two visits. 18 Q. Did she continue to see you for the 19 duration of her time at Washington and Lee, or 20 did there come a time where she was still a 21 student but no longer in counseling with you? 22 A. I, honestly, don't recall. 23 Q. Okay. When you met with her for 24 your counseling sessions, did you -- do you</p>

JANET BOLLER, PSYD - CONFIDENTIAL/UNDER SEAL

<p style="text-align: right;">Page 118</p> <p>1 conduct any type of physical examination?</p> <p>2 A. No.</p> <p>3 Q. Do you review her health history to</p> <p>4 determine whether she has any preexisting</p> <p>5 medical condition that might explain some of</p> <p>6 the symptoms she's presenting with?</p> <p>7 A. Just her self-report.</p> <p>8 Q. So no -- you don't solicit from any</p> <p>9 other healthcare provider her file or get notes</p> <p>10 of any other medical provider?</p> <p>11 A. I had not done that in this case,</p> <p>12 no.</p> <p>13 Q. Were you aware at the time that you</p> <p>14 were treating her that she had previously been</p> <p>15 diagnosed with an anxiety disorder and had been</p> <p>16 prescribed Lexapro?</p> <p>17 MR. WOOD: Object to the form.</p> <p>18 THE WITNESS: I don't remember if</p> <p>19 or when I knew that information.</p> <p>20 BY MR. GALLINARO:</p> <p>21 Q. Okay.</p> <p>22 A. I just don't remember. I mean it's</p> <p>23 possible that I had that, but I don't recall.</p> <p>24 Q. You just don't know one way or the</p>	<p style="text-align: right;">Page 120</p> <p>1 for [REDACTED]</p> <p>2 A. I mean it was initial as well as</p> <p>3 confirmed to the best of my ability with the</p> <p>4 information that I had at the time.</p> <p>5 Q. Okay. You'll see at the top that</p> <p>6 it says, "Verification of psychological</p> <p>7 condition." Is that something other than a</p> <p>8 diagnosis?</p> <p>9 A. No. It's a diagnosis.</p> <p>10 Q. Okay. If you could flip back to,</p> <p>11 we skipped over an exhibit, Exhibit-9.</p> <p>12 A. Okay.</p> <p>13 - - -</p> <p>14 (Whereupon the document was marked,</p> <p>15 for identification purposes, as</p> <p>16 Exhibit-9.)</p> <p>17 - - -</p> <p>18 BY MR. GALLINARO:</p> <p>19 Q. Jest let me know when you've had a</p> <p>20 moment to look at that.</p> <p>21 A. Look at that? Okay. Yeah. Okay.</p> <p>22 I've looked at that.</p> <p>23 Q. Okay. And I'll represent to you</p> <p>24 this is an email that you received from [REDACTED]</p>
<p style="text-align: right;">Page 119</p> <p>1 other?</p> <p>2 A. Correct.</p> <p>3 Q. And do you believe that two</p> <p>4 45-minute to an hour sessions, without having</p> <p>5 an understanding of her full medical history,</p> <p>6 is sufficient to diagnose a mental disorder to</p> <p>7 a reasonable degree of professional certainty?</p> <p>8 MR. WOOD: Object to the form.</p> <p>9 THE WITNESS: Yes.</p> <p>10 BY MR. GALLINARO:</p> <p>11 Q. Is it typical that you'll arrive at</p> <p>12 a diagnosis for a patient after two sessions?</p> <p>13 A. Yes.</p> <p>14 Q. Does it usually take two sessions</p> <p>15 or can you do it in one?</p> <p>16 A. I think sometimes I have a good</p> <p>17 idea after one.</p> <p>18 Q. Okay. Does a diagnosis ever change</p> <p>19 based on continuing treatment?</p> <p>20 A. Yes.</p> <p>21 Q. Okay. So is it -- is it an initial</p> <p>22 diagnosis or assessment, or is it a confirmed</p> <p>23 psychological diagnosis at the point of -- at</p> <p>24 the point in which you provided your opinion</p>	<p style="text-align: right;">Page 121</p> <p>1 [REDACTED] in response to a Discovery request we</p> <p>2 had made to her. And this is an email exchange</p> <p>3 between you and [REDACTED] on April 7th</p> <p>4 of 2017. Does that look accurate to you?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. And you can see on the first</p> <p>7 email, which is the last page, it says, on</p> <p>8 April 7th at 10:20 a.m., "Hi, Dr. Boller. I</p> <p>9 met with my hearing advisor yesterday and they</p> <p>10 suggested that I ask you for a letter that</p> <p>11 could be included in the investigation report.</p> <p>12 This letter would simply illustrate how you</p> <p>13 have seen this experience affect me. Please</p> <p>14 let me know as soon as possible if you are</p> <p>15 willing to do this."</p> <p>16 Do you see that?</p> <p>17 A. I do.</p> <p>18 Q. Okay. Do you recall her telling</p> <p>19 you that it was her advisor's idea that she get</p> <p>20 a letter from you?</p> <p>21 A. I mean I see it written here. I</p> <p>22 don't know that I would have recalled that if I</p> <p>23 hadn't been referring to this email.</p> <p>24 Q. Do you remember early in the</p>

JANET BOLLER, PSYD - CONFIDENTIAL/UNDER SEAL

<p style="text-align: right;">Page 122</p> <p>1 deposition we discussed the scenario in which 2 someone might come to you at the prompting of 3 perhaps a lawyer or someone in an adversarial 4 proceeding and whether that might raise your 5 suspicion as to why they were coming to you? 6 Did you have any concern like that based on the 7 request she was giving you here? 8 A. No. 9 Q. Okay. Why not? 10 A. Why wasn't I concerned or why 11 didn't I have suspicion? 12 Q. Yeah. If she's asking you for 13 something that her advisor is suggesting would 14 be helpful for her case, why that wouldn't have 15 presented any issue for you. 16 A. Because she's requesting that I 17 illustrate how the experience has affected her, 18 and that is something within my purview and 19 something that I felt able to provide. 20 Q. Okay. Is there anything that you 21 could tell the panel that she couldn't tell 22 them directly about how the experience affected 23 her? 24 MR. WOOD: Object to the form.</p>	<p style="text-align: right;">Page 124</p> <p>1 THE WITNESS: My own observations 2 of -- and my own sort of clinical opinion 3 of how that experience has affected her. 4 BY MR. GALLINARO: 5 Q. Was there anything that occurred 6 between her request on April 7th for a letter 7 that would simply illustrate how the request 8 affected her and what you prepared as the 9 April 13th letter where it sort of evolved from 10 illustrating how the experience affected her to 11 you providing a verification of a psychological 12 condition? How did you go from one to the 13 other? 14 MR. WOOD: Object to the form. 15 THE WITNESS: I don't remember 16 anything happening in intervening that -- 17 I don't know that I see it as evolving, 18 but I -- I don't remember what, if 19 anything, happened between April 7th and 20 April -- was the date the 13th, when I 21 wrote the -- when I wrote the document. 22 I'm not sure anything happened at all. I 23 don't know. 24</p>
<p style="text-align: right;">Page 123</p> <p>1 THE WITNESS: I don't know. I 2 don't feel like I'm in a position to say 3 that -- I don't know. 4 BY MR. GALLINARO: 5 Q. Well, do you know anything about 6 [REDACTED] other than what she's told you? 7 A. No. 8 Q. Okay. So if she thinks it would be 9 helpful for you to submit a letter to explain 10 to the board how the experience affected her, 11 is there any reason why she wouldn't be able to 12 just provide that information directly instead 13 of through you? 14 MR. WOOD: Object to the form. 15 THE WITNESS: I assume that she 16 could also tell them herself. 17 BY MR. GALLINARO: 18 Q. Okay. So what was your 19 understanding at this time, when she is asking 20 you to just sort of reiterate what she's 21 already told you about how the experience 22 affected her, about what you would be providing 23 in response to this request? 24 MR. WOOD: Object to the form.</p>	<p style="text-align: right;">Page 125</p> <p>1 BY MR. GALLINARO: 2 Q. Did you discuss with either her or 3 her advisors what the content of the letter 4 would be in any more detail than what we see 5 here in Exhibit-9? 6 A. I don't recall any contact with her 7 advisors, and I don't recall talking 8 specifically with [REDACTED] about that or not. 9 Q. Does seeing this email on April 7th 10 refreshing your recollection in any way as to 11 whether you would have had to see her for the 12 second time in order to prepare that letter or 13 whether you had already seen her by the time 14 you received this request? 15 A. I, honestly, don't -- I don't know 16 if I had seen her the second time yet or not. 17 I just don't know. 18 Q. Would that be reflected in your 19 notes, the date that you had seen her? 20 A. Certainly. 21 Q. Are you able to recall, without 22 access to your notes presently, whether she 23 reported the symptoms that you describe in your 24 letter in the first or second meeting?</p>



JANET BOLLER, PSYD - CONFIDENTIAL/UNDER SEAL

<p style="text-align: right;">Page 126</p> <p>1 A. No. I don't know.</p> <p>2 Q. You have no sense of higher</p> <p>3 understanding of how the incident impacted her</p> <p>4 evolved from, you know, the first time you met</p> <p>5 her?</p> <p>6 A. Until the second?</p> <p>7 Q. Until the time you wrote the</p> <p>8 letter.</p> <p>9 A. Oh. Well, I would have felt that I</p> <p>10 had all the adequate information to be able to</p> <p>11 write the letter in order to write it. So,</p> <p>12 and, you know, in a first session, I'm</p> <p>13 certainly, you know, I'm a trained clinician,</p> <p>14 so I'm always, you know, listening and</p> <p>15 assessing. Whether I'm formulating a diagnosis</p> <p>16 or not, I'm really assessing, you know, the</p> <p>17 whole picture of someone's presentation that</p> <p>18 includes, you know, symptoms that are visible</p> <p>19 to me as well as symptoms that they may report.</p> <p>20 So all of that is happening in, certainly, in</p> <p>21 one session and would be just sort of either</p> <p>22 confirmed or elaborated upon if there had been</p> <p>23 a second session before I wrote the letter.</p> <p>24 Q. You'll see in the second paragraph</p>	<p style="text-align: right;">Page 128</p> <p>1 Q. If you were aware of the Project</p> <p>2 Horizon counselor, and I understand you don't</p> <p>3 recall whether you were, but if you were aware,</p> <p>4 would you have wanted to consult with that</p> <p>5 person before arriving at your diagnosis?</p> <p>6 MR. WOOD: Object to the form.</p> <p>7 THE WITNESS: I mean, I don't know.</p> <p>8 It appears that I did not consult with</p> <p>9 that counselor if I had been aware. It</p> <p>10 feels very hypothetical. I'm not sure.</p> <p>11 BY MR. GALLINARO:</p> <p>12 Q. Well, just sort of as a general</p> <p>13 matter then, if you see a student for</p> <p>14 counseling who is also treating with another</p> <p>15 counselor simultaneously, would you want to</p> <p>16 know what that counselor thought before you</p> <p>17 arrived at a diagnosis?</p> <p>18 MR. WOOD: Object to the form.</p> <p>19 THE WITNESS: Yeah. Again,</p> <p>20 hypothetically, possibly so. It really</p> <p>21 depends on the situation.</p> <p>22 BY MR. GALLINARO:</p> <p>23 Q. Give me an example of a situation</p> <p>24 where you would want to hear from the other</p>
<p style="text-align: right;">Page 127</p> <p>1 here, the last sentence it says, "█████ is</p> <p>2 working in counseling to develop and utilize</p> <p>3 coping strategies to reduce the likelihood of</p> <p>4 this outcome."</p> <p>5 Do you see that?</p> <p>6 A. Yes.</p> <p>7 Q. What counseling are you referring</p> <p>8 to?</p> <p>9 A. Counseling with me.</p> <p>10 Q. Okay. Were you aware at the time</p> <p>11 that she was also seeing a counselor from</p> <p>12 Project Horizon?</p> <p>13 MR. WOOD: Object to the form.</p> <p>14 THE WITNESS: I may have been aware</p> <p>15 of that at the time. I don't recall that</p> <p>16 right now.</p> <p>17 BY MR. GALLINARO:</p> <p>18 Q. If, in fact, that were the case, do</p> <p>19 you think that you may have been referring to</p> <p>20 that in this letter, or are you confident</p> <p>21 you're referring to your own counseling with</p> <p>22 her?</p> <p>23 A. No. If I was aware of that, I</p> <p>24 could have been referring to that as well.</p>	<p style="text-align: right;">Page 129</p> <p>1 counselor.</p> <p>2 MR. WOOD: Object to the form.</p> <p>3 THE WITNESS: If the student wanted</p> <p>4 me to.</p> <p>5 BY MR. GALLINARO:</p> <p>6 Q. Okay.</p> <p>7 A. I would certainly want to make that</p> <p>8 connection and make that contact. It's one</p> <p>9 example I could think of. I mean there could</p> <p>10 be, you know, a variety of reasons why I might</p> <p>11 want to. Again, it feels difficult to say</p> <p>12 hypothetically. It would really just be case</p> <p>13 by case and what seemed appropriate or called</p> <p>14 for in this situation.</p> <p>15 Q. I'm just trying to see if I can</p> <p>16 better understand what circumstances you would</p> <p>17 feel it appropriate to speak with another</p> <p>18 healthcare provider. I don't know if there's a</p> <p>19 better way to phrase it if you're not</p> <p>20 understanding it, but if you're treating with</p> <p>21 someone who you know is treating with someone</p> <p>22 else, is it part of your practice normally to</p> <p>23 want to understand and have the information</p> <p>24 regarding the other provider and what they're</p>

JANET BOLLER, PSYD - CONFIDENTIAL/UNDER SEAL

<p style="text-align: right;">Page 130</p> <p>1 seeing and observing?</p> <p>2 MR. WOOD: Object to the form.</p> <p>3 THE WITNESS: I would say there are</p> <p>4 times that I have done that and times that</p> <p>5 I haven't. I wouldn't say either is</p> <p>6 necessarily standard for me. I think</p> <p>7 there are times that either have occurred.</p> <p>8 BY MR. GALLINARO:</p> <p>9 Q. Are there any -- are there any</p> <p>10 factors other than a student asking you to do</p> <p>11 that where you would assume that you would take</p> <p>12 that action?</p> <p>13 A. I don't know if I'd say there are</p> <p>14 any times I would assume that I would take that</p> <p>15 action. Again, just it being sort of case by</p> <p>16 case and that there would be a lot of factors</p> <p>17 that would weigh into that.</p> <p>18 Q. Yeah, and I'm just trying to get a</p> <p>19 sense of what those factors would be. So if</p> <p>20 you could give me any specific examples of what</p> <p>21 those factors would be that would weigh into</p> <p>22 that.</p> <p>23 A. So, again, not referring to</p> <p>24 anything specific or I'm not remembering any</p>	<p style="text-align: right;">Page 132</p> <p>1 say. I'm not saying that's all inclusive</p> <p>2 because I am, sort of, speaking, you know</p> <p>3 hypothetically and not referring to a</p> <p>4 particular situation, but those would be some</p> <p>5 of them.</p> <p>6 Q. Okay. One of them that you</p> <p>7 mentioned was if they were treating with the</p> <p>8 other professional for something similar or</p> <p>9 something completely different. If they were</p> <p>10 treating for something similar, would that make</p> <p>11 it more likely you would want to speak with</p> <p>12 them or less likely you would want to speak</p> <p>13 with them?</p> <p>14 A. I guess, again, it's just, I mean,</p> <p>15 possibly more likely. But it's, again, just a</p> <p>16 case-by-case situation or what I knew, when I</p> <p>17 knew it and how I -- how I understood that --</p> <p>18 that work to be and the type of person that</p> <p>19 they were working with. Yeah.</p> <p>20 Q. Okay.</p> <p>21 A. I just don't know how to be more</p> <p>22 specific than that.</p> <p>23 Q. Okay. You have relationships with</p> <p>24 the folks over at Project Horizon; is that</p>
<p style="text-align: right;">Page 131</p> <p>1 particular case, but it might be how long they</p> <p>2 knew the other person. It might be how long</p> <p>3 ago they had seen that person, if they plan to</p> <p>4 continue with that person, what they were --</p> <p>5 what was the purpose of that treatment, you</p> <p>6 know, was it coinciding with what I understood</p> <p>7 the person to be seeking treating with me for.</p> <p>8 Was it something completely separate?</p> <p>9 Q. If I could stop you there.</p> <p>10 A. Sure.</p> <p>11 MR. WOOD: You agreed at the top of</p> <p>12 this deposition that you and she would not</p> <p>13 interrupt one another, and now you're</p> <p>14 interrupting her. So I would ask you to</p> <p>15 let her finish her answer.</p> <p>16 MR. GALLINARO: I thought she was</p> <p>17 wrapping up, but there was something that</p> <p>18 she had just said I wanted to make sure I</p> <p>19 didn't lose track of.</p> <p>20 BY MR. GALLINARO:</p> <p>21 Q. But is there more factors you</p> <p>22 wanted to describe?</p> <p>23 A. I'm not sure. Just that those are,</p> <p>24 I guess, some examples, I guess, is all I would</p>	<p style="text-align: right;">Page 133</p> <p>1 right?</p> <p>2 A. I know some of them.</p> <p>3 Q. Okay. And they're involved in that</p> <p>4 Speak organization, I believe, that we</p> <p>5 discussed earlier?</p> <p>6 A. I don't know what you mean by</p> <p>7 involved. They have sometimes given</p> <p>8 presentations to that Speak group by the</p> <p>9 invitation of the Speak members.</p> <p>10 Q. Okay.</p> <p>11 A. I believe.</p> <p>12 Q. And do they provide -- do they have</p> <p>13 people in your position at Project Horizon:</p> <p>14 Psychologists, psychiatrists, mental healthcare</p> <p>15 providers?</p> <p>16 A. They typically have someone. I</p> <p>17 don't remember what that would have been at the</p> <p>18 time of this case that we're talking about</p> <p>19 in 2017. But my understanding, my</p> <p>20 recollection, is that the years that I have</p> <p>21 been aware of them as an organization, they</p> <p>22 have someone with the title of counselor.</p> <p>23 Again, I don't remember in 2017, but there have</p> <p>24 been times during my work at Washington and Lee</p>



JANET BOLLER, PSYD - CONFIDENTIAL/UNDER SEAL

<p style="text-align: right;">Page 134</p> <p>1 when that counselor, the person with that</p> <p>2 title, was not a licensed counselor, was not</p> <p>3 someone with a license to practice counseling.</p> <p>4 So it was more -- I'm not sure how to</p> <p>5 characterize it. So it wasn't someone who was</p> <p>6 able to diagnose, but someone more who would</p> <p>7 have been able to provide support.</p> <p>8 Q. In your time treating students at</p> <p>9 W&amp;L, have you ever had occasion to consult with</p> <p>10 Project Horizon over a student that you were</p> <p>11 mutually providing mental health services to?</p> <p>12 A. I don't recall either that</p> <p>13 situation coming up at all or a consultation in</p> <p>14 that regard.</p> <p>15 Q. Okay. Once you completed this</p> <p>16 letter in Exhibit-10, who did you send it to?</p> <p>17 A. I mean it appears it's written to</p> <p>18 Mr. Jarrett, Cliff Jarrett, who was a member of</p> <p>19 the HSMB.</p> <p>20 Q. Okay. Do you have any recollection</p> <p>21 of whether you sent it directly to him or</p> <p>22 whether you would have provided it to your</p> <p>23 client to provide to the board, or whether you</p> <p>24 submitted it to someone else?</p>	<p style="text-align: right;">Page 136</p> <p>1 you didn't consult with Lauren Kozak. Did you</p> <p>2 consult with Jason Rodocker at all?</p> <p>3 A. I don't believe so.</p> <p>4 Q. Okay. Would you have consulted</p> <p>5 with any of your colleagues at the Student</p> <p>6 Health Counseling Center?</p> <p>7 A. Unlikely. I don't recall. I don't</p> <p>8 believe so.</p> <p>9 Q. So is it your best recollection</p> <p>10 that you prepared this on your own, having only</p> <p>11 spoken with [REDACTED]?</p> <p>12 A. I believe so.</p> <p>13 Q. Your opening paragraph, it provides</p> <p>14 your opinion that [REDACTED] meets the diagnostic</p> <p>15 criteria for Acute Stress Disorder.</p> <p>16 Do you see that?</p> <p>17 A. I do.</p> <p>18 Q. Okay. And I assume, based on some</p> <p>19 testimony you gave earlier, that that would be</p> <p>20 pursuant to the criteria that's set forth in</p> <p>21 the DSM?</p> <p>22 A. Correct.</p> <p>23 Q. Do you know whether she had a</p> <p>24 diagnosis from her other counselor that either</p>
<p style="text-align: right;">Page 135</p> <p>1 A. I really don't recall.</p> <p>2 Q. Do you remember discussing the</p> <p>3 contents of the letter with Lauren Kozak before</p> <p>4 you completed it?</p> <p>5 A. No.</p> <p>6 Q. Did you consult with her in any way</p> <p>7 about the content of the letter before you --</p> <p>8 A. Did I --</p> <p>9 Q. Sorry -- before you turned it in,</p> <p>10 right? Before it was done, did you consult</p> <p>11 with Lauren Kozak at all about the letter?</p> <p>12 A. I don't believe so.</p> <p>13 Q. Did you consult with anyone from</p> <p>14 the Title IX staff about the content of the</p> <p>15 letter?</p> <p>16 A. I was interviewed after I had</p> <p>17 written the letter by --</p> <p>18 Q. I'm just focusing --</p> <p>19 A. I was interviewed after.</p> <p>20 Q. I'm sorry. I'm just focusing on</p> <p>21 the time period before. So for purposes of</p> <p>22 these questions, it's before you turned it in.</p> <p>23 Okay?</p> <p>24 So did you consult with -- you said</p>	<p style="text-align: right;">Page 137</p> <p>1 was the same or different?</p> <p>2 A. The other counselor being someone</p> <p>3 from Project -- I don't know. I don't know.</p> <p>4 Q. Okay. I'm going to refer back and</p> <p>5 forth between your letter and Exhibit-11, which</p> <p>6 is a copy of the DSM5.</p> <p>7 Would this have been the version of</p> <p>8 the DSM that you would have been following in</p> <p>9 reaching your diagnosis?</p> <p>10 A. If this is the version that was up</p> <p>11 to date in 2017. I haven't looked at the</p> <p>12 publishing date. If that's the version, then</p> <p>13 yes.</p> <p>14 - - -</p> <p>15 (Whereupon the document was marked,</p> <p>16 for identification purposes, as</p> <p>17 Exhibit-11.)</p> <p>18 - - -</p> <p>19 BY MR. GALLINARO:</p> <p>20 Q. Okay. First of all, I guess, do</p> <p>21 you agree that [REDACTED] didn't claim to have</p> <p>22 consciously experienced a traumatic event,</p> <p>23 rather she claimed to have learned about it</p> <p>24 after the fact? Do you recall that being the</p>

35 (Pages 134 - 137)

JANET BOLLER, PSYD - CONFIDENTIAL/UNDER SEAL

<p style="text-align: right;">Page 138</p> <p>1 case?</p> <p>2 A. I recall that she didn't remember</p> <p>3 aspects of the event.</p> <p>4 Q. Well, why don't we start this way.</p> <p>5 Why don't you tell me, as best you can recall,</p> <p>6 everything she told you about the event?</p> <p>7 A. Okay. Like I said, I haven't</p> <p>8 reviewed the chart since, so I am not going to</p> <p>9 remember very much, but that -- I mean I'm</p> <p>10 really not even sure that I can accurately</p> <p>11 reflect it without looking at my notes for this</p> <p>12 situation, to be honest with you.</p> <p>13 Q. Okay. Do you recall that she --</p> <p>14 that her claim was that the sexual penetration</p> <p>15 occurred while she was asleep, and she learned</p> <p>16 about it the next morning when she saw a condom</p> <p>17 on the floor --</p> <p>18 MR. WOOD: Object to the form.</p> <p>19 BY MR. GALLINARO:</p> <p>20 Q. -- and asked Mr. [REDACTED] about it?</p> <p>21 A. Yes. That is my recollection.</p> <p>22 Q. Okay. And so in a situation where</p> <p>23 someone is not either conscious or awake, do</p> <p>24 you consider those synonyms? When you're</p>	<p style="text-align: right;">Page 140</p> <p>1 was unconscious, or was it experiencing a</p> <p>2 sexual assault while she wasn't conscious?</p> <p>3 A. Are you referring to number one?</p> <p>4 Q. Yes.</p> <p>5 A. Yes. The traumatic event I'm</p> <p>6 referring to is the event of the sexual</p> <p>7 assault.</p> <p>8 Q. Okay. Which she wouldn't have</p> <p>9 known occurred without asking Mr. [REDACTED] about</p> <p>10 it.</p> <p>11 MR. WOOD: Object to the form.</p> <p>12 THE WITNESS: I mean, her body</p> <p>13 experienced this incident, so in some way</p> <p>14 she did know it occurred even if she did</p> <p>15 not recall.</p> <p>16 BY MR. GALLINARO:</p> <p>17 Q. Okay. I'm just trying to</p> <p>18 understand that. Like if we -- if -- does your</p> <p>19 body experience trauma, then, when you undergo</p> <p>20 surgery?</p> <p>21 A. I don't know. That's not my area.</p> <p>22 Some people might say yes.</p> <p>23 Q. Okay.</p> <p>24 A. But if someone is knocked</p>
<p style="text-align: right;">Page 139</p> <p>1 asleep are you conscious?</p> <p>2 A. I don't know medically. I would</p> <p>3 use those terms to mean the same thing.</p> <p>4 Q. Okay. Well, that's the -- I just</p> <p>5 want to have a shared understanding --</p> <p>6 A. Sure.</p> <p>7 Q. -- when I say she wasn't conscious,</p> <p>8 I'm referring to possibly being asleep.</p> <p>9 So if she were not conscious when</p> <p>10 the alleged sexual penetration occurred, how</p> <p>11 does that affect the way you're diagnosing her,</p> <p>12 if at all?</p> <p>13 A. So if you look at the criteria, you</p> <p>14 know, a lot of this would really still be</p> <p>15 applicable to how -- to the symptoms that she</p> <p>16 was experiencing as a result of that incident.</p> <p>17 Q. Okay. Well, so the diagnostic</p> <p>18 criteria -- well, let me back up.</p> <p>19 Turning back to your letter, you</p> <p>20 say in paragraph one, "Direct exposure to a</p> <p>21 traumatic event." And I guess I'm just trying</p> <p>22 to understand whether the traumatic event that</p> <p>23 she was directly exposed to was learning of the</p> <p>24 sexual assault because it happened while she</p>	<p style="text-align: right;">Page 141</p> <p>1 unconscious in an explosion and they don't</p> <p>2 recall it, I would very firmly say that they</p> <p>3 still experienced that trauma.</p> <p>4 Q. Sure. But if something is done to</p> <p>5 you while you're not conscious and aware that</p> <p>6 it's happening, your understanding is that can</p> <p>7 still be the traumatic event necessary to</p> <p>8 support an acute stress disorder diagnosis?</p> <p>9 A. Yes, like --</p> <p>10 MR. WOOD: Object to form.</p> <p>11 THE WITNESS: -- in the example I</p> <p>12 just gave. I'm sorry. Craig, I'm sorry.</p> <p>13 BY MR. GALLINARO:</p> <p>14 Q. Okay. Well, how about the example</p> <p>15 of someone who's unaware that they were</p> <p>16 sexually assaulted because they were</p> <p>17 unconscious; is that an additional example?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. I just wanted to be clear</p> <p>20 whether you were referring to the learning of</p> <p>21 it after the fact or the experience itself.</p> <p>22 So if you look over to the DSM, the</p> <p>23 diagnostic criteria in paragraph A refers to</p> <p>24 the exposure to actual or threatened death,</p>

JANET BOLLER, PSYD - CONFIDENTIAL/UNDER SEAL

<p style="text-align: right;">Page 142</p> <p>1 serious injury or sexual violation in any one 2 or more of the following ways. One is 3 "directly experiencing the traumatic event." 4 And would that be the one that you 5 believe is supported by her experience? 6 A. Yes. 7 Q. Okay. Your paragraph one -- I'm 8 sorry, I'm going to be flipping back and forth. 9 So in Exhibit-10, paragraph one, you said, 10 "Direct exposure to a traumatic event as 11 reported in the investigation report." 12 Did you have a copy of the 13 investigation report? 14 A. No. 15 Q. Okay. So what -- how is it that 16 you were referring to what was reported in it? 17 A. I'm referring to the fact that this 18 was already established for the hearing board, 19 that this was something that they had 20 information about from investigators. 21 Q. Okay. When you say that it was 22 established, do you mean that it was 23 established that it was her claim? 24 A. Yes. It was established in writing</p>	<p style="text-align: right;">Page 144</p> <p>1 where someone is coming to me with a 2 traumatic experience, I am accepting their 3 experience as told to me, and in this case 4 as already reported through the 5 investigators. 6 BY MR. GALLINARO: 7 Q. So you, as we discussed before, you 8 believe the patient when they tell you 9 something? 10 A. I do believe the patient when they 11 tell me something, and then there are the other 12 factors that I am assessing, which are, you 13 know, their presentation, including things that 14 are behavioral, nonverbal and whether those 15 would consistently match up with what they're 16 telling me in terms of a diagnosis. 17 Q. Okay. But as we said before, you 18 don't do any independent investigation of 19 whether their claim is true, correct? 20 A. I'm not investigator, that's true. 21 Q. And you didn't read the 22 investigation report, so you didn't know what 23 the respondent's version of the story was, 24 correct?</p>
<p style="text-align: right;">Page 143</p> <p>1 through trained investigators who took her 2 report. 3 Q. Okay. So she claimed to have 4 experienced the traumatic event, that's what 5 you're referring to? 6 MR. WOOD: Object to the form. 7 THE WITNESS: Yes. 8 BY MR. GALLINARO: 9 Q. Okay. So I guess if that forms -- 10 and that's required, right, you have to meet -- 11 in order to be diagnosed with acute stress 12 disorder, you have to, first, have been exposed 13 to a traumatic event before we start looking at 14 whether the remaining criteria are met, 15 correct? 16 A. Right. That's for A, Criteria A, 17 yes. The exposure is part of it. 18 Q. Okay. So would you agree with me 19 that you have to accept as a starting point the 20 truth of what the Title IX hearing is trying to 21 determine as an end point, which is whether or 22 not she was sexually assaulted. 23 MR. WOOD: Object to the form. 24 THE WITNESS: In most situations</p>	<p style="text-align: right;">Page 145</p> <p>1 A. Correct. 2 Q. You just accepted her claim that 3 she was exposed to a traumatic event, correct? 4 A. I was her counselor and therapy -- 5 you know, treating -- treatment provider, so 6 yes. 7 Q. And your concluding paragraph of 8 your letter, which reads, "In my professional 9 clinical opinion, [REDACTED] experienced a traumatic 10 event as she described when interviewed." 11 Just to be clear, so you're 12 referring to the sexual assault, correct? 13 A. Yes. 14 Q. Okay. So rather than a diagnosis, 15 you're concluding -- your conclusion as set 16 forth in this letter is that she was assaulted? 17 MR. WOOD: Object to the form. The 18 report speaks for itself. 19 BY MR. GALLINARO: 20 Q. Do you agree that your conclusion 21 is that [REDACTED] experienced a traumatic event? 22 A. My conclusion, yes, is that, in my 23 clinical opinion, that she experienced a 24 traumatic event based on, you know, all the</p>

JANET BOLLER, PSYD - CONFIDENTIAL/UNDER SEAL

<p style="text-align: right;">Page 146</p> <p>1 other criteria and symptoms that are listed, 2 that may have been the traumatic event that she 3 described in the report. It could have been 4 something else, but that she met criteria for 5 that diagnosis based on my clinical 6 interpretation and observations and assessment 7 of her and what she reported to me. 8 Q. But you didn't say it may have been 9 something else; you said that she experienced 10 the traumatic event as she described when 11 interviewed, referring to the investigation 12 report. So your conclusion was that she was 13 sexual assaulted by [REDACTED] correct? 14 MR. WOOD: Object to the form. 15 THE WITNESS: My conclusion is that 16 those would all be consistent. 17 BY MR. GALLINARO: 18 Q. I'm sorry, I didn't follow that. 19 Those would all be consistent with what? 20 A. The experience of her trauma as she 21 described it when interviewed would be 22 consistent with her clinical presentation. 23 Q. Okay. And based upon that, you 24 concluded that she experienced the traumatic</p>	<p style="text-align: right;">Page 148</p> <p>1 forensically. I'm not purporting that my 2 clinical opinion is set forth to answer policy 3 or legal questions. I was requested to provide 4 a letter that spoke to the experience as I 5 understood it from [REDACTED] and so I am providing 6 that clinical opinion. 7 Q. Okay. And were you aware that the 8 board members that you were supplying this 9 letter to were people that you had trained in 10 2016 during those presentations that we 11 reviewed earlier in your deposition? 12 MR. WOOD: Object to the form. 13 THE WITNESS: I don't know if that 14 was on my mind or not. 15 BY MR. GALLINARO: 16 Q. Whether it was on your mind, do you 17 know if -- did you know at the time that those 18 were the individuals who would be receiving the 19 report? 20 A. I probably knew some of them. I 21 didn't know the current composition, the entire 22 composition of the board. 23 Q. Would you agree with me that when 24 two people dispute whether an event happened,</p>
<p style="text-align: right;">Page 147</p> <p>1 event, correct? 2 A. Her symptoms would be consistent 3 with the traumatic event as she described it. 4 That's my -- that was my clinical opinion. 5 Q. Okay. Well, you didn't say -- you 6 didn't say it would be consistent. You said 7 based on your professional clinical opinion, 8 she experienced a traumatic event. Did you 9 make a mistake? 10 A. No. I'm saying that's my clinical, 11 professional opinion. 12 Q. Okay. And, again, you hadn't 13 reviewed any of the evidence that was 14 available, correct? 15 A. I wasn't privy to any of that 16 information. 17 Q. And you're aware that you were 18 providing this letter with this opinion to the 19 board members who would be deciding the 20 responsibility of Mr. [REDACTED] in the disciplinary 21 proceeding, correct? 22 A. I was aware of that, and my role is 23 not as a forensic professional. My role is as 24 a clinical professional. I'm not trained</p>	<p style="text-align: right;">Page 149</p> <p>1 you should typically hear from both sides 2 before you form an opinion as to whether that 3 event happened? 4 MR. WOOD: Object to the form. 5 THE WITNESS: Would I agree that 6 who should do that? 7 BY MR. GALLINARO: 8 Q. You. If you're going to -- 9 A. I'm not -- 10 Q. -- that an event happened, would 11 you first want to hear from the other side of 12 the case? 13 MR. WOOD: Object to the form. 14 THE WITNESS: I mean it's 15 hypothetical. That would be case by case, 16 but I'm usually working with one 17 individual in a clinical counseling 18 setting, and I'm not an investigator or a 19 member of a hearing board. 20 BY MR. GALLINARO: 21 Q. Okay. Looking back to the symptoms 22 that you've described here in paragraphs one -- 23 starting with paragraph number one, the 24 symptoms seem to track the language that's used</p>

JANET BOLLER, PSYD - CONFIDENTIAL/UNDER SEAL

<p style="text-align: right;">Page 150</p> <p>1 in the DSM. Is that -- is that the way that</p> <p>2 [REDACTED] described her symptoms to you or do you</p> <p>3 sort of recast them based on your understanding</p> <p>4 of the DSM?</p> <p>5 A. That would have been both her</p> <p>6 report, my observations of her behavior and</p> <p>7 affect, as well as, you know, the appropriate</p> <p>8 clinical terms to use to describe experiences</p> <p>9 that a student may be using, you know, lots of</p> <p>10 different language to report. I wasn't quoting</p> <p>11 her but summarizing the experiences.</p> <p>12 Q. Okay. I guess I'd like to kind of</p> <p>13 go through each one and ask you which of these</p> <p>14 you were able to personally observe. So were</p> <p>15 you able to personally observe that she had</p> <p>16 experienced recurrent involuntary and intrusive</p> <p>17 memories?</p> <p>18 A. No. That would have been her</p> <p>19 report.</p> <p>20 Q. Okay. Were you able to personally</p> <p>21 observe that she had recurrent distressing</p> <p>22 dreams?</p> <p>23 A. Nope. That would have been her</p> <p>24 report.</p>	<p style="text-align: right;">Page 152</p> <p>1 avoided?</p> <p>2 A. I don't.</p> <p>3 Q. Did you check with -- you didn't</p> <p>4 check with any of her friends to see if that</p> <p>5 was consistent with what they were</p> <p>6 experiencing, right?</p> <p>7 A. That would be beyond the scope and</p> <p>8 beyond the limits of my confidentiality with</p> <p>9 her.</p> <p>10 Q. Did you understand that one of the</p> <p>11 places she would have wanted to avoid being was</p> <p>12 near the fraternity house where the event</p> <p>13 occurred?</p> <p>14 A. I don't remember.</p> <p>15 Q. You don't recall? Did you observe</p> <p>16 paragraph number six, her sleep disturbances?</p> <p>17 A. No.</p> <p>18 Q. So, again, that's just her report?</p> <p>19 A. Correct.</p> <p>20 Q. Did you observe her hypervigilance?</p> <p>21 A. That is something that could be</p> <p>22 observable, again, without looking at my notes,</p> <p>23 but that would be something that could be</p> <p>24 observable in a clinical setting.</p>
<p style="text-align: right;">Page 151</p> <p>1 Q. Okay. Did you personally observe</p> <p>2 her negative mood?</p> <p>3 A. Yes.</p> <p>4 Q. Okay. Describe that, what you</p> <p>5 observed, if you can.</p> <p>6 A. I would need to refer to my</p> <p>7 clinical notes at the time to accurately use</p> <p>8 the best words to describe that, but that would</p> <p>9 have certainly been something that I observed</p> <p>10 in her.</p> <p>11 Q. Okay. Did you observe avoidance</p> <p>12 symptoms?</p> <p>13 A. Not necessarily. That depends.</p> <p>14 Sometimes, again, I don't recall without seeing</p> <p>15 my notes if that's something that was</p> <p>16 observable or not.</p> <p>17 Q. Okay. The paragraph five here that</p> <p>18 says avoidance symptoms, it goes on to provide</p> <p>19 a little bit more detail. It says, "[REDACTED]"</p> <p>20 avoids being alone, attempts to distract</p> <p>21 herself from thoughts, and avoids particular</p> <p>22 places on campus."</p> <p>23 Do you know what places on campus?</p> <p>24 Do you recall what places on campus she</p>	<p style="text-align: right;">Page 153</p> <p>1 Q. How would you observe if she were</p> <p>2 hyperaware of her surroundings and making sure</p> <p>3 she was aware of who was around and whether she</p> <p>4 feels safe?</p> <p>5 A. How would someone display those?</p> <p>6 Q. Yes.</p> <p>7 A. Because I don't recall what she</p> <p>8 specifically did, so I just want to clarify</p> <p>9 that.</p> <p>10 Hypervigilance could look like, in</p> <p>11 a clinical way, someone whose eyes are flitting</p> <p>12 about, someone whose -- any sound that is made</p> <p>13 in a room, that someone is having a -- let's</p> <p>14 see, it could be a startle response. It could</p> <p>15 also just be a response, you know, really</p> <p>16 noticing any sounds or other people that may</p> <p>17 be, you know, even in the periphery of their</p> <p>18 view. Those are examples.</p> <p>19 Q. Okay. And you just don't recall</p> <p>20 whether you actually observed any of those</p> <p>21 things with regard to [REDACTED]"</p> <p>22 A. I don't recall if part of that was</p> <p>23 my observation, part of it was her report, or a</p> <p>24 little bit of both.</p>



JANET BOLLER, PSYD - CONFIDENTIAL/UNDER SEAL

<p style="text-align: right;">Page 154</p> <p>1 Q. With regard to the sleep 2 disturbance, did you ask her any questions 3 about whether she would have been taking 4 sleeping aids or anything in followup to her 5 report that she had experienced sleep 6 disturbance? 7 A. Without my notes, I don't recall. 8 Q. Okay. Paragraph eight, difficulty 9 concentrating, is that anything you were able 10 to observe? 11 A. Again, I don't recall. That's 12 certainly something that can be observable for 13 a clinician. Are you able to concentrate when 14 I'm talking to you right now, you know, that is 15 something you can determine. 16 Q. Okay. Could you walk me through 17 your method in determining that she has these 18 symptoms? How do you go about tracking what 19 she's reporting and arriving at the diagnosis? 20 MR. WOOD: Just a clarification -- 21 THE WITNESS: Are you asking -- 22 MR. WOOD: Yeah. Are you asking in 23 this case or in general? 24</p>	<p style="text-align: right;">Page 156</p> <p>1 maybe what is different now than it used to be 2 for them. So if they only recently experienced 3 depression, what was their -- how did they 4 experience life before that? What's been the 5 change? So those sorts of things. 6 So I'm just trying to draw out as 7 much description from them as possible about 8 their functioning and their emotional 9 experiences, their cognitive experiences. That 10 would be my -- I can't say there's not 11 something I'm not thinking of, but those would 12 be, sort of, the typical ways that I might be 13 assessing someone who's presenting to me new 14 for the first time or early on. 15 Q. In going through the questions, do 16 you have a checklist sort of or a cheat sheet 17 of things you should be asking about or is it 18 all upstairs? 19 A. Typically, when I'm meeting someone 20 for the first time, I have a form, I guess, I 21 would use, with some prompts about their mental 22 status, their sleep. I'm not looking at it 23 right now. I can't think, but I -- typically, 24 I can't say for sure, again, that I used that</p>
<p style="text-align: right;">Page 155</p> <p>1 BY MR. GALLINARO: 2 Q. I guess I'll start with in general. 3 A. In general, I would be doing a lot 4 of listening to what the person is saying, 5 first and foremost, in terms of why they've 6 come and, you know, what they are -- what they 7 are here to talk about. And then I would be 8 asking a lot of questions possibly to determine 9 the different ways it's affecting somebody. 10 Now these are questions that I would be asking 11 when I meet a person for the first time whether 12 it was sexual assault or not. So I'm going to 13 ask people about -- I'm going to ask them 14 about, you know, how they're doing in school, 15 you know, those sorts of things. So some of 16 them are going to be questions that I ask in 17 general when I'm assessing somebody. Asking 18 questions to get them to sort of describe more, 19 right, about their experiences and the 20 different ways. 21 So I might not be asking about a 22 specific symptom, but rather sort of drawing 23 things out of them to tell me more about their 24 daily life, how things are going for them,</p>	<p style="text-align: right;">Page 157</p> <p>1 it in her case. I usually use something like 2 that that is prompting me to kind of, you know, 3 ask those questions. If I didn't have that in 4 front of me, you know, these are the types of 5 interviews that I've been doing for, you know, 6 my entire career starting with training, so you 7 know, there are things that come pretty readily 8 once you're building that rapport with someone 9 and kind of, you know, asking about, you know, 10 some pretty standard types of things. 11 Q. We were just discussing your sort 12 of general practices. Is there any reason you 13 think in this case your interaction with [REDACTED] 14 would have differed from your general practice? 15 A. Not any reason that I can recall. 16 Q. Okay. Are there particular 17 diagnoses that you're, sort of, more concerned 18 with when you're interviewing someone that's 19 reported they have been sexually assaulted? 20 Like are you, just to try to clarify what I 21 mean, are there a specific set of, like PTSD, 22 acute stress disorder, ones that are like right 23 there at the top of what you're expecting the 24 person to maybe experience, so you ask</p>

JANET BOLLER, PSYD - CONFIDENTIAL/UNDER SEAL

<p style="text-align: right;">Page 158</p> <p>1 questions sort of geared towards whether 2 they're experiencing those symptoms? Does that 3 make sense? 4 A. Yeah. Sure. I would be thinking 5 about those symptoms if someone -- if that was 6 what they came and presented with. Those would 7 be things I would be tuned into especially. 8 Q. So what are the, sort of, the top, 9 you know, top-of-the-list conditions that you'd 10 be on the lookout for for someone who reported 11 as a -- that they had been sexually assaulted? 12 A. So as you said, certainly, you 13 know, the possibility of a trauma diagnosis or 14 PTSD. You know, acute stress disorder and PTSD 15 are related to differences in the timing, 16 relation to the event and sort of the duration, 17 so I'd be paying attention to that, but I'd be 18 paying attention to mood generally. I'd be 19 paying attention to anxiety. Those can be -- 20 those can exist in a co-morbid way, right. 21 They can also be -- they can also be distinct 22 for some people. I'd be asking about, you 23 know, maybe substance abuse in some cases. 24 There are, you know, it's not that</p>	<p style="text-align: right;">Page 160</p> <p>1 them about each and every symptom of the acute 2 stress disorder or PTSD in your interviews to 3 see if they meet those diagnostic criteria? 4 A. It depends. 5 Q. Okay. Do you think you did that in 6 [REDACTED] case? 7 A. I certainly wouldn't have reported 8 anything that I didn't feel I had either asked 9 about or that she had reported. So if it's -- 10 you know, based on the fact that I'm looking at 11 this letter and I'm reporting these things 12 then, I'm sure that it was covered in the 13 sessions that I had with her. 14 Q. Okay. And I guess what I'm trying 15 to understand is, do you have to draw out 16 whether she's experiencing these things or is 17 she able to sort of tick off by just talking to 18 you, without you prompting her, each and every 19 one of these symptoms that you've reflected 20 here? 21 A. It would be very unusual in my 22 experience that someone comes in and ticks off 23 a list of symptoms. So unusual I would almost 24 say that I don't know that I've really ever</p>
<p style="text-align: right;">Page 159</p> <p>1 I don't ask certain questions, but, yes, I 2 might be tuning in more to those things if 3 someone said they had an experience of an 4 assault or an abuse history. 5 Q. Do you do anything to make sure 6 that you're not suggesting symptoms to your 7 patient? 8 A. I mean, I am trying not to put 9 words in their mouth. I'm not interrogating 10 them. I'm not -- I'm not an investigator. So 11 I'm really just asking, tell me about your 12 sleep. Tell me about your mood. If they don't 13 know what I mean, I might say, well, is it more 14 like this or more like that, but I'm really 15 trying to let them tell me what they're 16 experiencing. And I would say, again, that's 17 my general practice, not with regards 18 specifically to someone who's reporting an 19 assault experience. 20 Q. Okay. Would your practice be any 21 different for someone who had reported a sexual 22 assault experience? 23 A. I don't think so. 24 Q. Okay. Do you make sure you ask</p>	<p style="text-align: right;">Page 161</p> <p>1 experienced that. It's usually in the course 2 of conversation, of talking with them and, as 3 you said, drawing things out so that I can 4 better understand. Again, people don't come to 5 me on a mandate, so people are coming to me 6 asking for treatment or, you know, they may not 7 use that word, but asking for support, asking 8 for guidance or advice. And they are, you 9 know, often in distress about something that's 10 happened or uncomfortable with, you know, how 11 things are going for them. So, you know, it 12 becomes a, sort of a conversation of me trying 13 to really fully understand all of those things 14 for them and listening to them say what they 15 need to say as well as asking questions when I 16 feel I need more information. 17 Q. Do you think or did you think it 18 was important to consider [REDACTED] motive in 19 obtaining a diagnosis from you when you 20 prepared it? 21 A. I'm not seeing where [REDACTED] asked for 22 a diagnosis. 23 Q. Well, she asked you for something, 24 right? She asked you for some kind of letter?</p>

JANET BOLLER, PSYD - CONFIDENTIAL/UNDER SEAL

<p style="text-align: right;">Page 162</p> <p>1 A. Yes.</p> <p>2 Q. And you drafted this letter that</p> <p>3 we're reviewing in Exhibit-10, correct?</p> <p>4 A. Correct.</p> <p>5 Q. So did you -- did you provide her</p> <p>6 with a diagnosis without her asking you to do</p> <p>7 that?</p> <p>8 MR. WOOD: Object to the form. She</p> <p>9 testified as to what she was requested</p> <p>10 already.</p> <p>11 THE WITNESS: I mean, [REDACTED] asked</p> <p>12 for me to ex -- the letter would</p> <p>13 illustrate how I had seen the experience</p> <p>14 affect her, and I don't recall my exact</p> <p>15 thinking process, but one way for me to</p> <p>16 illustrate that as a professional is to</p> <p>17 provide that in the form of, you know, an</p> <p>18 official, sort of, clinical assessment.</p> <p>19 BY MR. GALLINARO:</p> <p>20 Q. So it was your idea to provide it</p> <p>21 in the form of a diagnosis as opposed to just</p> <p>22 relaying what she had experienced?</p> <p>23 A. I don't recall being asked to</p> <p>24 provide it in the form of a diagnosis from</p>	<p style="text-align: right;">Page 164</p> <p>1 report, is what the hearing advisors</p> <p>2 recommended to her, so I guess to at least</p> <p>3 be one piece in that investigation report.</p> <p>4 BY MR. GALLINARO:</p> <p>5 Q. Well, it was your understanding</p> <p>6 that this was to be used to help bolster her</p> <p>7 claim in the Title IX proceeding.</p> <p>8 A. I don't know that I would say that</p> <p>9 that's exactly what I was thinking. I think</p> <p>10 that she asked for me to do something, and I</p> <p>11 was doing it to really support her. I don't</p> <p>12 know what I thought or how it would be viewed</p> <p>13 or weighted or regarded. I was really doing it</p> <p>14 because she asked.</p> <p>15 Q. Okay. But you wrote it to the</p> <p>16 chair of the hearing board, so you had an</p> <p>17 understanding of what you were doing, right?</p> <p>18 You were providing this to the board members.</p> <p>19 But is it your testimony that you</p> <p>20 didn't understand what the purpose of that</p> <p>21 would then be used for?</p> <p>22 A. I don't know how --</p> <p>23 MR. WOOD: Object to the form.</p> <p>24 THE WITNESS: Sorry. I don't know</p>
<p style="text-align: right;">Page 163</p> <p>1 anyone else.</p> <p>2 Q. So given that's the case then, it</p> <p>3 would have been your decision to do that?</p> <p>4 A. I think so.</p> <p>5 Q. Okay. You understood that</p> <p>6 [REDACTED] -- the reason for [REDACTED] request was to</p> <p>7 help influence the outcome of her disciplinary</p> <p>8 proceeding?</p> <p>9 MR. WOOD: Object to the form.</p> <p>10 THE WITNESS: She said that her</p> <p>11 hearing advisor said it would be helpful,</p> <p>12 I believe, is what the email says.</p> <p>13 BY MR. GALLINARO:</p> <p>14 Q. This wasn't in furtherance of her</p> <p>15 treatment, right? This wasn't in furtherance</p> <p>16 of the counseling you were providing her; this</p> <p>17 was for a different purpose. This was to</p> <p>18 influence the outcome of her disciplinary</p> <p>19 proceeding, correct?</p> <p>20 MR. WOOD: Object to the form.</p> <p>21 THE WITNESS: I mean I think that's</p> <p>22 assuming what she was thinking, which I</p> <p>23 don't know, but it says a letter that</p> <p>24 could be included in her investigation</p>	<p style="text-align: right;">Page 165</p> <p>1 how they would weight that or view that.</p> <p>2 I don't know what else, as you asked</p> <p>3 before, I didn't see any other aspects of</p> <p>4 the report. I really just viewed it as</p> <p>5 one piece that represented my clinical</p> <p>6 impressions.</p> <p>7 BY MR. GALLINARO:</p> <p>8 Q. Do you think it would be a piece</p> <p>9 that would support her case, undermine her case</p> <p>10 or be detrimental to her case?</p> <p>11 MR. WOOD: Object to the form.</p> <p>12 THE WITNESS: I think it was</p> <p>13 consistent with what her claim was.</p> <p>14 BY MR. GALLINARO:</p> <p>15 Q. If you flip back to the DSM, there</p> <p>16 is a section amongst the criteria that says</p> <p>17 have to be met that include "associative</p> <p>18 symptoms." Do you see that? And that's on</p> <p>19 page 281 of Exhibit-11.</p> <p>20 A. Yes. I do see that.</p> <p>21 Q. Okay. And associative symptoms</p> <p>22 include "inability to remember an important</p> <p>23 aspect of a traumatic event," correct?</p> <p>24 A. It says that, yes.</p>

JANET BOLLER, PSYD - CONFIDENTIAL/UNDER SEAL

<p style="text-align: right;">Page 166</p> <p>1 Q. Okay. And you did not include that</p> <p>2 in your diagnosis, correct?</p> <p>3 A. It doesn't appear so in my letter.</p> <p>4 Q. Okay. And so because it's not in</p> <p>5 your letter, would I be correct in concluding</p> <p>6 you did not ascribe her inability to remember</p> <p>7 the sexual intercourse with any kind of amnesia</p> <p>8 or memory issues related to trauma?</p> <p>9 A. I'm not sure I understand your</p> <p>10 question --</p> <p>11 Q. Okay.</p> <p>12 A. -- exactly the way -- I'm just not</p> <p>13 sure how...</p> <p>14 Q. I'll try to rephrase it.</p> <p>15 There's an aspect of acute stress</p> <p>16 disorder that falls under the category of</p> <p>17 associative symptoms which --</p> <p>18 A. Right.</p> <p>19 Q. -- references an inability to</p> <p>20 remember part of the traumatic event or aspects</p> <p>21 of the traumatic event.</p> <p>22 You did not include that in your</p> <p>23 diagnosis of [REDACTED]</p> <p>24 A. Right.</p>	<p style="text-align: right;">Page 168</p> <p>1 correct?</p> <p>2 A. I mean, I just don't remember</p> <p>3 weighing it in that particular way to say that</p> <p>4 I agree with the statement as you just put it.</p> <p>5 But you are asking, you know, what did I think,</p> <p>6 and to the best of my ability, I don't remember</p> <p>7 it being, sort of, clear why -- or that I had</p> <p>8 an opinion as to why she couldn't remember.</p> <p>9 Q. Okay. Flipping back to the DSM,</p> <p>10 just to kind of walk through how you meet the</p> <p>11 criteria here, under paragraph A, you first</p> <p>12 have to be -- you first have to have</p> <p>13 experienced trauma, right?</p> <p>14 A. Correct.</p> <p>15 Q. And B was, assuming you've</p> <p>16 experienced a trauma, then you need to</p> <p>17 experience nine or more of the following</p> <p>18 symptoms, correct?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. Your letter, if we look back</p> <p>21 at it now, includes as paragraph one, "direct</p> <p>22 exposure to the traumatic event." So that's</p> <p>23 paragraph A of the DSM, correct?</p> <p>24 A. Yes.</p>
<p style="text-align: right;">Page 167</p> <p>1 Q. So what I'm asking is if, is it</p> <p>2 fair for me to then conclude that you don't</p> <p>3 believe that the reason she can't remember the</p> <p>4 sexual assault is because she was traumatized?</p> <p>5 That's not the conclusion you reached.</p> <p>6 A. I mean I can't say that for sure.</p> <p>7 I agree that it wasn't one of the things that I</p> <p>8 listed that -- that met the criteria for the</p> <p>9 trauma diagnosis. I guess I can't say</p> <p>10 definitively that that means I ruled out every</p> <p>11 single other thing on this list.</p> <p>12 Q. Okay.</p> <p>13 A. I just can't say for sure that I</p> <p>14 hadn't ruled out anything that wasn't there,</p> <p>15 but that the ones that I put were things that I</p> <p>16 felt were salient to me at the time based on my</p> <p>17 interview and meetings with her.</p> <p>18 Q. Did you form any opinions as to why</p> <p>19 she was unable to remember the traumatic event?</p> <p>20 A. I don't think it was clear a</p> <p>21 hundred percent.</p> <p>22 Q. Okay. So because it wasn't clear</p> <p>23 to you, you couldn't form an opinion to a</p> <p>24 reasonable degree of professional certainty,</p>	<p style="text-align: right;">Page 169</p> <p>1 Q. Okay. And then B, we now have to</p> <p>2 find nine symptoms, and in your letter, would</p> <p>3 you agree with me, that paragraph number nine</p> <p>4 and ten are not the symptoms that are listed</p> <p>5 under B?</p> <p>6 A. Let me just clarify. Let me look</p> <p>7 at that for one second.</p> <p>8 Q. Sure.</p> <p>9 A. Correct. Yes, I agree.</p> <p>10 Q. Okay. So excluding one and nine</p> <p>11 and ten, we only have seven symptoms, and the</p> <p>12 DSM requires nine.</p> <p>13 Do you agree that you haven't</p> <p>14 actually listed criteria that supports the</p> <p>15 diagnosis you provided?</p> <p>16 A. No. I don't agree.</p> <p>17 Q. Okay. Well, where are the other</p> <p>18 symptoms that are required? You need nine; do</p> <p>19 you agree?</p> <p>20 A. Well, since none of these are, like</p> <p>21 in categories, and so there could be more than</p> <p>22 one in any of those categories. I'm just</p> <p>23 looking at this to pull out an example if I</p> <p>24 can. Let me see.</p>

JANET BOLLER, PSYD - CONFIDENTIAL/UNDER SEAL

<p style="text-align: right;">Page 170</p> <p>1 Q. Okay.</p> <p>2 A. Okay. So, for example, under</p> <p>3 Avoidance, that's number five for me, and say</p> <p>4 there were avoidance symptoms. But if you look</p> <p>5 at avoidance in the DSM on page 281, there are</p> <p>6 two separate ways that that can be manifested.</p> <p>7 So in my bullet point number five, I include</p> <p>8 both of those types. Do you see what I'm</p> <p>9 saying?</p> <p>10 Q. I do. And the DSM goes on to</p> <p>11 require, once you've met those, you've ticked</p> <p>12 off nine of the symptoms of the 14 that are</p> <p>13 listed, you also have to satisfy a duration</p> <p>14 which you address, I believe, in paragraph ten,</p> <p>15 correct?</p> <p>16 A. Yes. I think so.</p> <p>17 Q. Okay.</p> <p>18 A. Yes. Right.</p> <p>19 Q. Okay. And then paragraph D says,</p> <p>20 "The disturbance causes clinically significant</p> <p>21 distress or impairment in social, occupational</p> <p>22 or other important areas of functioning."</p> <p>23 Can you tell me where your letter</p> <p>24 addresses that requirement?</p>	<p style="text-align: right;">Page 172</p> <p>1 [REDACTED] experienced that would have satisfied this</p> <p>2 diagnostic criteria?</p> <p>3 A. I can't tell you what exactly I was</p> <p>4 thinking at the time, but just looking back at</p> <p>5 this, I would say she's having trouble</p> <p>6 sleeping. She's having trouble concentrating.</p> <p>7 She's a student, so that's affecting her</p> <p>8 ability to function as a student, both if she</p> <p>9 can't sleep, if she can't concentrate. It's</p> <p>10 affecting socially if she's worried about where</p> <p>11 she's going, et cetera. Like those would be</p> <p>12 the things that support that.</p> <p>13 Q. And, again, those are the type of</p> <p>14 things that you would be understanding based on</p> <p>15 her self-report?</p> <p>16 A. Correct, as is true for all of the</p> <p>17 work that I do, essentially.</p> <p>18 Q. I think it's 12, almost 40. It's a</p> <p>19 good time -- I'm getting a little hungry if --</p> <p>20 A. As am I.</p> <p>21 Q. -- you wouldn't mind taking a lunch</p> <p>22 break.</p> <p>23 A. That would be great.</p> <p>24</p>
<p style="text-align: right;">Page 171</p> <p>1 A. Yeah. No, it does not address</p> <p>2 that.</p> <p>3 Q. Okay. So is that something that's</p> <p>4 missing from the diagnosis?</p> <p>5 A. I think I was sort of wrapping it</p> <p>6 into the conclusion that these symptoms affect</p> <p>7 her in, sort of, the affect of the emotional,</p> <p>8 cognitive and behavioral condition overall, but</p> <p>9 I did not specifically layout criteria in, I</p> <p>10 guess it's D.</p> <p>11 Q. Okay. What would -- what does it</p> <p>12 mean to say that a distress or impairment is</p> <p>13 clinically significant? What does that mean?</p> <p>14 A. You know, like most of what I do in</p> <p>15 this work, as you can probably see, you know,</p> <p>16 it's subjective, and it's kind of the</p> <p>17 collective -- I mean I feel like this is sort</p> <p>18 of a summary, criterion D, of all of these</p> <p>19 things are happening and it's distressing for</p> <p>20 [REDACTED] And that distress is shown, you know, by</p> <p>21 sort of the collective of all of these symptoms</p> <p>22 and just the way that it's affecting her.</p> <p>23 Q. Can you recall what, if any,</p> <p>24 clinically significant impairment or distress</p>	<p style="text-align: right;">Page 173</p> <p>1 - - -</p> <p>2 (Lunch recess 12:38-1:10 p.m.)</p> <p>3 - - -</p> <p>4 BY MR. GALLINARO:</p> <p>5 Q. Dr. Boller, we just came back from</p> <p>6 a break, and if it's all right with you we'll</p> <p>7 proceed now.</p> <p>8 A. Yes.</p> <p>9 Q. Okay. I'd like you to turn to</p> <p>10 Exhibit-13 if you could.</p> <p>11 A. Okay.</p> <p>12 - - -</p> <p>13 (Whereupon the document was marked,</p> <p>14 for identification purposes, as</p> <p>15 Exhibit-13.)</p> <p>16 - - -</p> <p>17 BY MR. GALLINARO:</p> <p>18 Q. And do you recognize this document?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. And did you review this</p> <p>21 document in preparation for your deposition?</p> <p>22 A. Yes, briefly I looked at it.</p> <p>23 Q. And you would agree with me this is</p> <p>24 the summary of your interview with Lauren Kozak</p>



JANET BOLLER, PSYD - CONFIDENTIAL/UNDER SEAL

<p style="text-align: right;">Page 174</p> <p>1 and Jason Rodocker on April 17, 2017?</p> <p>2 A. Yes. Correct.</p> <p>3 Q. Do you recall who contacted you to</p> <p>4 set up this interview?</p> <p>5 A. It was either Lauren Kozak or Jason</p> <p>6 Rodocker.</p> <p>7 Q. Do you recall any discussion about</p> <p>8 why they wanted to interview you?</p> <p>9 A. I don't recall a discussion about</p> <p>10 why, no.</p> <p>11 Q. Did you have any understanding of</p> <p>12 what they were interested in hearing about from</p> <p>13 you before you actually sat down and</p> <p>14 interviewed with them?</p> <p>15 A. I don't remember exactly what they</p> <p>16 said ahead of time. I mean, I knew it was</p> <p>17 about the, you know -- I knew it was about [REDACTED]</p> <p>18 and the case, but I don't know that I knew</p> <p>19 anything more than that.</p> <p>20 Q. Okay. Is it your recollection that</p> <p>21 this is, while maybe not a verbatim transcript,</p> <p>22 but that it fully describes what occurred</p> <p>23 during the interview, or is this more of a</p> <p>24 summary of the main points that occurred during</p>	<p style="text-align: right;">Page 176</p> <p>1 here says, "In the Listed Criteria, it says</p> <p>2 that [REDACTED] experiences memories of the event.</p> <p>3 What memories did she describe?"</p> <p>4 And then the answer that's</p> <p>5 reflected here says, "[REDACTED] doesn't remember the</p> <p>6 incident itself. Rather she remembers details</p> <p>7 about being with him, wanting to go asleep,</p> <p>8 saying she was thirsty. She has memories of</p> <p>9 the next day when she saw the used condom and</p> <p>10 asking him about that. Her memories all relate</p> <p>11 to aspects surrounding the event but not the</p> <p>12 event itself."</p> <p>13 Did I read that correctly?</p> <p>14 A. Yes.</p> <p>15 Q. Okay. Did you -- this describes</p> <p>16 her inability to remember the event itself, and</p> <p>17 I presume by that, you mean the nonconsensual</p> <p>18 sexual intercourse that occurred.</p> <p>19 A. Correct.</p> <p>20 Q. Did you have any discussion with</p> <p>21 the investigators pertaining to [REDACTED]</p> <p>22 inability to recall the consensual sexual</p> <p>23 activity that proceeded the nonconsensual</p> <p>24 activity?</p>
<p style="text-align: right;">Page 175</p> <p>1 the interview?</p> <p>2 A. I don't know if this answers your</p> <p>3 question, but what I would say is that I don't</p> <p>4 believe they asked me other questions that are</p> <p>5 not reflected here, but I think that the</p> <p>6 answers are a summary of the answers that I</p> <p>7 provided.</p> <p>8 Q. Okay. About how long did the</p> <p>9 interview last, do you think?</p> <p>10 A. I don't recall, but I would say not</p> <p>11 more than an hour.</p> <p>12 Q. Were you -- did you have any</p> <p>13 materials with you when you provided the</p> <p>14 interview?</p> <p>15 A. I don't remember if I had my notes</p> <p>16 in front of me or not.</p> <p>17 Q. Okay. Did they have any materials</p> <p>18 with them when they interviewed you?</p> <p>19 A. I mean, they had a pad of paper and</p> <p>20 I believe were taking notes, but I don't know</p> <p>21 if they had other materials.</p> <p>22 Q. Did they show you any documents?</p> <p>23 A. No.</p> <p>24 Q. The first question that's listed</p>	<p style="text-align: right;">Page 177</p> <p>1 A. I don't recall asking about this or</p> <p>2 talking about that at all.</p> <p>3 Q. Okay. So a topic of their</p> <p>4 questions didn't address why she was unable to</p> <p>5 remember consensual acts. They focused on the</p> <p>6 nonconsensual act; is that accurate?</p> <p>7 A. I think they just focused on this</p> <p>8 one incident.</p> <p>9 Q. Well, did you understand that [REDACTED]</p> <p>10 reported that there was consensual and</p> <p>11 nonconsensual activity?</p> <p>12 A. I actually don't recall that until</p> <p>13 you're saying that right now.</p> <p>14 Q. I'll represent to you that</p> <p>15 according to her, there -- let me back up.</p> <p>16 I'll represent to you that the</p> <p>17 parties did not dispute that oral sex occurred.</p> <p>18 [REDACTED] position was that she did not recall</p> <p>19 specifically performing oral sex but thinks</p> <p>20 that she likely did, and if she did, it would</p> <p>21 have been consensual. That was her position.</p> <p>22 A. Okay.</p> <p>23 Q. With that representation, do you</p> <p>24 remember that being part of anything that [REDACTED]</p>

JANET BOLLER, PSYD - CONFIDENTIAL/UNDER SEAL

<p style="text-align: right;">Page 178</p> <p>1 told you during your counseling sessions?</p> <p>2 A. I just don't recall.</p> <p>3 Q. Okay. And you don't recall whether</p> <p>4 the investigators asked you about any of her</p> <p>5 inability to remember that aspect of their</p> <p>6 encounter, the oral sex?</p> <p>7 A. I really don't recall anything like</p> <p>8 that.</p> <p>9 Q. Okay. So because you don't recall</p> <p>10 any, even knowing that there was consensual</p> <p>11 sexual activity, would it be fair then to</p> <p>12 conclude that you didn't form an opinion as to</p> <p>13 why she was unable to remember consensual</p> <p>14 sexual activity?</p> <p>15 MR. WOOD: Object to the form.</p> <p>16 THE WITNESS: Again, without</p> <p>17 looking at my notes, I really don't know</p> <p>18 if I had an opinion as to that or not,</p> <p>19 because I don't remember -- I don't really</p> <p>20 remember any of the details you're</p> <p>21 accounting to me, so I just don't know.</p> <p>22 BY MR. GALLINARO:</p> <p>23 Q. Okay. The second question they ask</p> <p>24 you mentions, "The criteria mentions having</p>	<p style="text-align: right;">Page 180</p> <p>1 If there are dreams and the content of those</p> <p>2 dreams, I just don't think there is a typical.</p> <p>3 Q. Okay. The third question is, "In</p> <p>4 the listed criteria, it says that the symptoms</p> <p>5 are not attributable to any other condition.</p> <p>6 Can you describe the difference between acute</p> <p>7 stress disorder and generalized anxiety</p> <p>8 disorder?" And then your answer goes on to</p> <p>9 address that, correct?</p> <p>10 A. Right. Yes, correct.</p> <p>11 Q. You note that, "Even though the</p> <p>12 symptoms between those two disorders overlap,</p> <p>13 the quantity and specificity of the symptoms</p> <p>14 indicate that ASD is the more accurate and</p> <p>15 appropriate."</p> <p>16 Is that correct?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. But you didn't have any</p> <p>19 understanding of what her symptoms were that</p> <p>20 led to her generalized anxiety disorder; did</p> <p>21 you?</p> <p>22 A. Again, without my notes, I don't</p> <p>23 know how much detail was shared with me about a</p> <p>24 prior diagnosis of anxiety or not. That</p>
<p style="text-align: right;">Page 179</p> <p>1 daily dreams related to rape. Did she describe</p> <p>2 the dreams?" And then the response reflected</p> <p>3 here is, "[REDACTED] recorded daily dreams in which</p> <p>4 her perpetrator tells her calmly that he has</p> <p>5 raped her in the past and that she didn't know</p> <p>6 it. In other words, her dreams are not</p> <p>7 memories of the incident, but about hearing</p> <p>8 from her perpetrator that he raped her and she</p> <p>9 did not know it."</p> <p>10 First, did I read that correctly?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. And as we described before,</p> <p>13 this is based on your understanding, based on</p> <p>14 what [REDACTED] has reported to you, correct?</p> <p>15 A. Yes.</p> <p>16 Q. Is it your -- is it typical in your</p> <p>17 experience dealing with sexual assault victims</p> <p>18 that their dreams -- that they would have</p> <p>19 dreams about other interactions with the</p> <p>20 perpetrator -- I'll use that word -- other than</p> <p>21 what actually happened?</p> <p>22 A. I don't think there's any typical</p> <p>23 in that situation. I think that it's so</p> <p>24 variable for people who've experienced trauma.</p>	<p style="text-align: right;">Page 181</p> <p>1 doesn't mean none of those symptoms would have</p> <p>2 come up or that I have no -- you know, that I</p> <p>3 haven't taken any notes about that, but I don't</p> <p>4 recall. And, again, there is -- you know,</p> <p>5 there is overlap, and some of those general</p> <p>6 symptoms of anxiety, you know -- you know, may</p> <p>7 or may -- may or may not have been present, but</p> <p>8 because the acute stress disorder criteria is</p> <p>9 sort of a higher threshold and more -- you need</p> <p>10 more, sort of, specific symptoms to meet that,</p> <p>11 that that one still seems like the appropriate</p> <p>12 diagnosis.</p> <p>13 Q. Okay. If you come down a little</p> <p>14 bit, though, it does say here that Dr. Boller</p> <p>15 did not know [REDACTED] before this incident, so she</p> <p>16 cannot offer a pre and post comparison.</p> <p>17 Do you see that?</p> <p>18 A. Right. Yes, I do. Correct.</p> <p>19 Q. If she had had all these prior</p> <p>20 symptoms and it were unrelated to any trauma,</p> <p>21 would that have influenced your diagnosis?</p> <p>22 A. I mean, that's hard to say. But</p> <p>23 are you saying -- can you ask it one more time?</p> <p>24 Q. Sure. Like, let's imagine a</p>

JANET BOLLER, PSYD - CONFIDENTIAL/UNDER SEAL

Page 182	Page 184
<p>1 scenario where you did -- you got in touch with</p> <p>2 her, you know, a counselor who had -- whoever</p> <p>3 it was that previously diagnosed her with GAD</p> <p>4 and prescribed Lexapro, and you conclude from</p> <p>5 that that it seems like she has been</p> <p>6 experiencing most, if not all, of the symptoms</p> <p>7 that you referenced in your letter, would that</p> <p>8 --</p> <p>9 A. Okay.</p> <p>10 Q. -- affect your diagnosis?</p> <p>11 A. Again, as you pointed out when we</p> <p>12 talked about that letter earlier, you know,</p> <p>13 criterion A is that there's a trauma. So it</p> <p>14 would affect my diagnosis possibly depending on</p> <p>15 whether there was a previous trauma that would</p> <p>16 have explained those symptoms at that time.</p> <p>17 Q. Well, so let's assume that the</p> <p>18 trauma -- that she had all the symptoms, right,</p> <p>19 but no trauma, and that's what led to the GAD,</p> <p>20 and then she experienced trauma, and then she</p> <p>21 continued to have all the same symptoms that</p> <p>22 she already had beforehand. Would that be a</p> <p>23 reason to switch the disorder diagnosis from</p> <p>24 GAD to ASD, or would you conclude it doesn't</p>	<p>1 have made me feel more certain or less</p> <p>2 certain hypothetically speaking.</p> <p>3 BY MR. GALLINARO:</p> <p>4 Q. Okay. Well, if you knew -- we</p> <p>5 don't know what the symptoms, you know, that --</p> <p>6 neither of us know whatever symptoms she had</p> <p>7 that led to the GAD. Right? So we're both</p> <p>8 sort of operating in a vacuum here. But you</p> <p>9 said that if she had all the same symptoms,</p> <p>10 that it might impact your current understanding</p> <p>11 of whether she had ASD.</p> <p>12 Are we having a shared</p> <p>13 understanding?</p> <p>14 MR. WOOD: Object to the form.</p> <p>15 THE WITNESS: I mean, it's all just</p> <p>16 hypothetical. So I'm just not -- I'm just</p> <p>17 not sure. I mean you're asking if I had</p> <p>18 different information, would I have</p> <p>19 reached a different conclusion, and I'm</p> <p>20 saying that's possible, but I don't know.</p> <p>21 BY MR. GALLINARO:</p> <p>22 Q. Well, you knew that there was</p> <p>23 information you didn't have, right? You knew</p> <p>24 that there was a diagnosis, and you did not</p>
Page 183	Page 185
<p>1 appear that the trauma has changed her symptoms</p> <p>2 in any way because she had all of these before?</p> <p>3 Does that make sense?</p> <p>4 A. I believe it does.</p> <p>5 Q. Great.</p> <p>6 A. I mean, it's just -- it's hard for</p> <p>7 me to say what I would have thought</p> <p>8 retrospectively. If there was a trauma, it</p> <p>9 could have informed it. If I hadn't seen it</p> <p>10 myself and there were just factors of, you</p> <p>11 know, is it possible that it would have</p> <p>12 influenced me to think about it differently? I</p> <p>13 suppose it's possible. That just -- that</p> <p>14 wasn't the scenario that I was dealing with, so</p> <p>15 I can't really say.</p> <p>16 Q. Knowing that she had a previous</p> <p>17 diagnosis, would it have made you -- would you</p> <p>18 have been able to be more certain of your</p> <p>19 diagnosis if you had actually been able to</p> <p>20 review what led to that diagnosis?</p> <p>21 MR. WOOD: Object to the form.</p> <p>22 THE WITNESS: I felt certain enough</p> <p>23 with my diagnosis to prepare the letter</p> <p>24 that I did. It's hard to say what would</p>	<p>1 know the basis for it, correct?</p> <p>2 MR. WOOD: Object to the form.</p> <p>3 THE WITNESS: I don't remember if I</p> <p>4 did know that. I don't remember if I knew</p> <p>5 that there was a diagnosis.</p> <p>6 BY MR. GALLINARO:</p> <p>7 Q. It's written here in your answer.</p> <p>8 It says -- in the Listed Criteria, it says that</p> <p>9 "symptoms are not attributable to another</p> <p>10 condition. Can you describe the difference</p> <p>11 between acute stress disorder and generalized</p> <p>12 anxiety disorder?"</p> <p>13 Did you not understand they were</p> <p>14 asking those questions because she already had</p> <p>15 a preexisting diagnosis?</p> <p>16 A. I didn't necessarily think that</p> <p>17 that's why they were asking that, but also,</p> <p>18 this came after I had already written the</p> <p>19 letter.</p> <p>20 Q. Okay. So you're not sure if you</p> <p>21 knew that she had -- that she ever had GAD?</p> <p>22 A. I really just don't recall without</p> <p>23 seeing my notes.</p> <p>24 Q. Okay. So I guess I'm just</p>

JANET BOLLER, PSYD - CONFIDENTIAL/UNDER SEAL

<p style="text-align: right;">Page 186</p> <p>1 requesting you to operate under the assumption 2 that she did have a previous diagnosis of GAD. 3 Okay? 4 MR. WOOD: Object to the form. 5 BY MR. GALLINARO: 6 Q. Can we -- can we -- can we start 7 from, I'll ask you to just accept for purposes 8 of my question that -- 9 A. Okay. 10 Q. -- before she ever saw you, she had 11 a previous diagnosis of GAD, for which she had 12 been prescribed Lexapro? 13 A. Okay. 14 Q. I want you to assume that's true. 15 A. Okay. 16 Q. Okay. So if you were to -- if you 17 wanted to arrive at the best diagnosis you 18 could possibly give, would you want to know why 19 she had been previously diagnosed with GAD 20 before you arrived at your conclusion that now 21 she has ASD? 22 MR. WOOD: Object to the form. 23 THE WITNESS: Possibly so. 24</p>	<p style="text-align: right;">Page 188</p> <p>1 the investigation and hearing process?" 2 So you were asked whether someone 3 could exhibit symptoms, and again, you -- there 4 are symptoms which you've never observed her to 5 exhibit, correct? 6 A. Some of them were by her report. 7 Q. The first sentence of your answer, 8 you say, "Well, Dr. Boller cannot say that that 9 would never be true. In her opinion, it's 10 highly unlikely to be the explanation for 11 [REDACTED] symptoms." 12 And my first question is, which 13 aspect of the question are you referring to? 14 Because they asked you, could someone have this 15 disorder if someone believes they have 16 experienced something or didn't, and secondly 17 could it have been caused by the stress of 18 going through the process? And your answer 19 says you can't say it would never be true, but 20 it seems unlikely to be the explanation. 21 Which of those two things is 22 unlikely to be the explanation? 23 A. I'm just looking at the rest of the 24 answer to see if it was separated out.</p>
<p style="text-align: right;">Page 187</p> <p>1 BY MR. GALLINARO: 2 Q. As we discussed, if all the 3 symptoms were the same prior to the traumatic 4 event to after, that might influence your 5 opinion as to whether she actually suffered 6 from ASD? 7 MR. WOOD: Object to the form. 8 THE WITNESS: It could have meant 9 that I would have diagnosed her with both. 10 BY MR. GALLINARO: 11 Q. I guess the point is, you don't 12 know because you didn't have the information, 13 correct? You don't know how it might have 14 impacted your diagnosis? 15 A. Exactly. That's what I'm saying. 16 It feels very hypothetical. I don't know how 17 it would have impacted me. 18 Q. Okay. All right. The fourth 19 question, I'd like to focus on that now. 20 It says, "Can acute stress disorder 21 be caused if someone believes they have 22 experienced a traumatic event but didn't 23 actually experience it? Secondly, could it 24 have been caused by the stress of going through</p>	<p style="text-align: right;">Page 189</p> <p>1 Q. Sure. 2 A. It doesn't look like I specify 3 anything that's related to the stress of the 4 process in this answer. It appears that it is 5 all related to the first question. 6 Q. Okay. You go on to say that 7 "Trauma experts believe that trauma is 8 experienced cognitively, emotionally and 9 bodily." 10 With regard to your reference to 11 trauma experts, are there any individuals that 12 you might have been referring to there that we 13 haven't discussed already when I've asked you 14 who's informed your understanding of trauma? 15 A. Nothing more specific than what I 16 answered earlier. 17 Q. The next two -- let's move on to 18 the next two sentences. So, "The body 19 experiences and absorbs trauma and reflects it 20 in a particular way. It's difficult to imagine 21 a scenario where a person would experience the 22 range and specificity of symptoms as [REDACTED] has 23 when the experience was believed to be true but 24 not actually true. It would cause one to</p>

JANET BOLLER, PSYD - CONFIDENTIAL/UNDER SEAL

<p style="text-align: right;">Page 190</p> <p>1 wonder what happened to render the belief so 2 strong. A possibility would include the 3 presence of a psychotic disorder where reality 4 is acutely disturbed." 5 Are you opining here that unless 6 [REDACTED] has some sort of psychotic disorder then 7 what she's saying happened, happened? 8 A. I'm not sure that I'm saying that. 9 I'm saying that the presentation and my 10 clinical assessment of that presentation, 11 which, yes, it's from self-report, but that is 12 the job that I do every day when I diagnose 13 people, whether it's related to sexual assault 14 or not. That doesn't mean I'm never wrong but 15 that is like the clinical tool that I have sort 16 of honed over time is sort of like collecting 17 all of that information, right. I'm saying all 18 of that as presented and assessed, in my 19 opinion, was that that specificity would not 20 be -- would be hard to, sort of, imagine that 21 being experienced if it was something that 22 didn't actually happen. 23 Q. Okay. But that doesn't address 24 whether she could have been not telling the</p>	<p style="text-align: right;">Page 192</p> <p>1 because she has -- at least part of the reason 2 she knew it would have been nonconsensual is 3 because she had a personal rule that she never 4 has sexual intercourse with people that she's 5 not interested in a relationship with, and that 6 Mr. [REDACTED] didn't meet that criteria. 7 Do you recall that being a topic of 8 anything you discussed with her? 9 A. Now that you're saying that, it 10 vaguely rings a bell, but I don't think I would 11 have remembered that otherwise. 12 Q. Okay. So the scenario we have is 13 someone who is experiencing something or claims 14 to be experiencing something where they can't 15 remember, sort of, a large portion of their 16 evening. And they're making assumptions based 17 on what would have been consensual or 18 nonconsensual based on their own personal 19 rules. Are you with me? 20 A. I think so. 21 MR. WOOD: I'm going to object to 22 the form of it, predicate, but you can go 23 ahead. 24</p>
<p style="text-align: right;">Page 191</p> <p>1 truth with regard to what experience she was -- 2 what symptoms she was experiencing, correct? 3 A. I wasn't being asked to make a 4 determination of the credibility of her claim. 5 I was asked for my clinical expertise, my 6 clinical opinion. 7 Q. Okay. I want to ask you about -- 8 and I apologize, I'm just going to close my 9 office door. I'll be right back. 10 I just want to ask you about, you 11 said you couldn't imagine a scenario, and so I 12 want to discuss with you a potential scenario 13 based on the way the investigation report 14 reflected what occurred. This is a case, as 15 I've told you, where she has -- there were at 16 least two sexual acts, one of which was 17 consensual according to her, and one of which 18 was nonconsensual according to her, and she 19 doesn't remember either. Are you with me? 20 A. Okay. I mean I don't recall it, 21 but I'm with you. 22 Q. Okay. She -- her testimony in the 23 case was that she knew that the vaginal 24 intercourse would have been nonconsensual</p>	<p style="text-align: right;">Page 193</p> <p>1 BY MR. GALLINARO: 2 Q. So if she -- would you agree with 3 me that sometimes people don't always follow 4 their own personal rules, particularly if 5 they've been drinking? 6 MR. WOOD: Object to the form. 7 THE WITNESS: I mean... 8 BY MR. GALLINARO: 9 Q. Just as a general matter. Are you 10 aware that alcohol lowers people's inhibitions? 11 A. Sure. Yes. 12 Q. Okay. Sometimes people do things 13 after they've had a few drinks that they wish 14 they didn't do, right? 15 MR. WOOD: Object to the form. 16 THE WITNESS: Yes. I would imagine 17 that's true. 18 BY MR. GALLINARO: 19 Q. Okay. So in a scenario like the 20 one that [REDACTED] reported, where she doesn't 21 remember having -- doing oral sex or vaginal 22 sex with Mr. [REDACTED] and she's assuming that she 23 would have steadfastly adhered to her personal 24 rule during a time she can't remember, and</p>



JANET BOLLER, PSYD - CONFIDENTIAL/UNDER SEAL

<p style="text-align: right;">Page 194</p> <p>1 that's the basis for her believing she were 2 assaulted, would that result in the kind of 3 traumatic symptoms that you recorded if she 4 actually were wrong, if she -- 5 MR. WOOD: Objection. 6 BY MR. GALLINARO: 7 Q. -- actually did actively 8 participate in sex and was just wrong that she 9 didn't adhere to her personal rule because she 10 can't remember it? 11 MR. WOOD: Object to the form. 12 BY MR. GALLINARO: 13 Q. Are you with me? 14 A. I mean that's a -- I mean I think 15 so. It just feels impossible for me to say. 16 Q. Well, you said you couldn't imagine 17 a scenario in which someone could believe the 18 event to have occurred had it not occurred 19 unless they had some kind of psychotic 20 disorder. So what I'm giving to you now is the 21 scenario that likely did occur between [REDACTED] 22 and [REDACTED]. We know that she didn't remember 23 either act of sex but contested that one was 24 consensual and one was nonconsensual based on</p>	<p style="text-align: right;">Page 196</p> <p>1 BY MR. GALLINARO: 2 Q. Okay. It's not a scenario that you 3 considered in forming your diagnosis, correct? 4 A. I don't know. 5 Q. You didn't consider whether she 6 were just mistaken, that she believed that she 7 wouldn't have done something during a time she 8 can't remember when she actually actively 9 participated in it. You didn't consider 10 whether that could have been the case? 11 A. Object to the form. 12 THE WITNESS: I don't believe 13 someone would experience the consistency 14 of traumatic symptoms if it was a mistake 15 and it's not really what happened. That 16 does not adhere to me with what I know 17 about trauma -- 18 BY MR. GALLINARO: 19 Q. Okay. And -- 20 A. -- and clinical symptoms. 21 Q. So a mistaken belief that you were 22 traumatized -- 23 A. Is not the same as trauma. 24 Q. -- symptoms; is that what you're</p>
<p style="text-align: right;">Page 195</p> <p>1 her own personal rule, but which she likely 2 would have been okay with during a time she 3 can't remember. Do you understand? 4 A. Mm-hmm. I think so. 5 MR. WOOD: Objection to the 6 predicate. 7 BY MR. GALLINARO: 8 Q. So if she were not -- if she 9 didn't, for whatever reason, because she had 10 had a couple of drinks that night, she didn't 11 adhere to her personal rule and just doesn't 12 remember it but believes, because she just has 13 this rule, it must have been rape, would that 14 still result in the kind of symptoms that 15 you've described here? 16 MR. WOOD: Object to the form. 17 THE WITNESS: Yeah. I mean, I'm 18 not agreeing to what you're painting as 19 the likely scenario, but you're presenting 20 it as a hypothetical, and I still say it 21 just feels impossible for me to say how -- 22 what that would have meant for her 23 diagnosis. Is that what you're saying? I 24 mean, I don't know.</p>	<p style="text-align: right;">Page 197</p> <p>1 saying? 2 A. I'm sorry. I think I cut you off 3 because I thought you were done. Say the last 4 part of that question. 5 Q. I'm speaking slow because I'm 6 tired. A mistaken belief that you've been 7 traumatized because you simply don't remember 8 what happened to you, but you're later told 9 that you were -- you were traumatized, but you 10 weren't, you don't think that that could result 11 in symptoms? 12 A. I don't have experience with 13 that -- with that situation. 14 Q. Okay. The final question in your 15 interview says, "Did [REDACTED] express any reason 16 she believes she did not remember the 17 incident?" And your answer is, "[REDACTED] wondered 18 whether there were drugs in her seltzer offered 19 to her by the perpetrator because she felt so 20 heavily drowsy so suddenly afterwards in a way 21 that was not normal for her sleep pattern." 22 And Dr. Boller remarked that, "Some people 23 block out traumatic events. Additionally, 24 someone may not remember due to physical injury</p>

JANET BOLLER, PSYD - CONFIDENTIAL/UNDER SEAL

<p style="text-align: right;">Page 198</p> <p>1 or someone may be blacked out due to excessive 2 alcohol use. Dr. Boller cannot say what 3 happened here." 4 Were you opining one way or another 5 whether any of those explanations were the 6 likely cause of her inability to remember? 7 A. I think I'm being really clear in 8 that response that [REDACTED] said one thing, and 9 that I'm proposing possible alternatives that 10 occur to me. 11 Q. Okay. But you didn't form -- you 12 didn't -- you weren't concluding that those 13 were likely; you're just saying here's a range 14 of things that might explain it, but I don't 15 really know what happened. Is that your 16 testimony? 17 A. I think what I've written here is 18 just really clear that I'm presenting what [REDACTED] 19 said and other possibilities. 20 Q. Okay. And you conclude by saying, 21 "You can't say what happened here," right? 22 A. I wasn't there. I have no 23 definitive knowledge of what happened in that 24 situation.</p>	<p style="text-align: right;">Page 200</p> <p>1 just sort of reporting what she said to me. 2 Q. Are you aware that [REDACTED] reported 3 that the consensual oral sex that she reported, 4 which she was unable to remember, happened 5 before she alleges she drank from the can of 6 seltzer? 7 A. I don't recall. 8 Q. Okay. Well, if you accept for me 9 that that was her statement in the 10 investigation, that I drank the seltzer after 11 the oral sex that I don't remember, are you 12 aware of any drug that can erase memories from 13 before you ingested it? 14 A. I have -- I mean, I'm not an expert 15 in medications and how it would affect memory 16 either way, so I don't know. 17 Q. So you don't have experience with 18 date-rape drugs, despite all of your experience 19 treating sexual assault survivors? 20 MR. WOOD: Object to the form. 21 THE WITNESS: There are so -- 22 sorry, Craig. 23 There are so many different drugs 24 that are used as, quote, date-rape drugs,</p>
<p style="text-align: right;">Page 199</p> <p>1 Q. Right. So I just wanted to make 2 sure I'm understanding that you weren't 3 offering any kind of view or expertise of why 4 she couldn't remember. You're essentially 5 saying you're not sure? 6 A. I was offering possibilities, 7 including [REDACTED] opinion as she presented it to 8 me. 9 Q. Okay. But not weighing in with 10 your own expertise saying that it's more likely 11 that this would have happened or something else 12 would have explained it? 13 A. It doesn't appear that I've stated 14 it that way. 15 Q. When you reference the fact that 16 [REDACTED] wondered whether there were any drugs in 17 the seltzer offered to her, you weren't aware 18 of any medical evidence that would speak to 19 whether [REDACTED] had drugs in her system; were you? 20 A. No. I don't believe so. 21 Q. Okay. And other than [REDACTED] 22 wondering whether that were the case, you can't 23 offer any other detail about that, correct? 24 A. Right, which is why I didn't. I'm</p>	<p style="text-align: right;">Page 201</p> <p>1 which is why it's difficult to test for 2 them because you'd be running a panel of 3 tests for a multitude of things. So I'm 4 not familiar with each of them and whether 5 they affect retroactive memory or -- I'm 6 just -- I'm not an expert in that by any 7 stretch. 8 BY MR. GALLINARO: 9 Q. You can't opine one way or the 10 other whether a drug could do that? 11 A. I don't know. 12 Q. Okay. You note that some people 13 block out traumatic events, right? 14 A. Yes. I believe that can happen. 15 Q. Okay. But that wouldn't explain 16 her inability to remember consensual sex, 17 right? 18 MR. WOOD: Object to the form. 19 THE WITNESS: I mean, again, just 20 difficult -- difficult to say how much 21 memory is affected when someone is 22 blocking out a memory. 23 BY MR. GALLINARO: 24 Q. So a traumatic event might include</p>

JANET BOLLER, PSYD - CONFIDENTIAL/UNDER SEAL

<p style="text-align: right;">Page 202</p> <p>1 a blocking of a memory of the events leading up 2 to the traumatic event? 3 A. Yes. It can. It could. 4 Q. Are you a memory expert? 5 A. No. 6 Q. Okay. That's your understanding of 7 how trauma affects memory? 8 A. I'm saying that my experience is 9 that some people who've experienced trauma can 10 have difficulty with their memory, and that 11 would be of the things that happened up to and 12 including the event. So which things are 13 remembered or which things are not, I don't 14 know. I think it can affect your memory. So 15 it can affect your memory in different ways. 16 Q. Okay. And the nonconsensual sexual 17 activity in this case, according to [REDACTED] 18 occurred while she was asleep. I think we 19 discussed this before, but, so we can't -- we 20 can't form memories when we're asleep, right? 21 MR. WOOD: Object to the form. 22 THE WITNESS: We remember things 23 when we are asleep, like dreams, so again 24 I'm just not sure what else to say about</p>	<p style="text-align: right;">Page 204</p> <p>1 Q. You've acted, I believe, in two 2 other Title IX matters other than this one; is 3 that correct? 4 A. Oh. I really don't recall. Do you 5 mean like in the hearing at, like, with the 6 hearing board? 7 Q. Well -- 8 A. I don't remember being a witness. 9 Q. -- exactly. So I'll tell you why 10 I'm asking the question. We've asked the 11 university in a written Discovery request to 12 identify other matters in which you had 13 provided testimony as a witness, and they 14 identified a matter that occurred in the 2014 15 and 2015 academic year, and a matter that 16 occurred in the 2015/2016 academic year. I 17 don't know too much more than that, so that's 18 why I'm going to ask you questions, if you can 19 help me identify the sexual misconduct cases 20 where you participated as a witness. 21 A. I don't recall participating as a 22 witness in front of the hearing board. I don't 23 recall ever being called in front of the 24 hearing board.</p>
<p style="text-align: right;">Page 203</p> <p>1 that. 2 BY MR. GALLINARO: 3 Q. Okay. When you talk about blocking 4 out memories, are you talking about the concept 5 of repressed memory? 6 A. Not necessarily. I'm just saying 7 sometimes people don't remember things, 8 literally from, like even from a head trauma, 9 right. You cannot remember some things after 10 there has been -- whether that's a, you know, a 11 physical trauma or an emotional trauma. That's 12 what I'm saying. 13 --- 14 (Mr. Schwartz entered the 15 proceeding.) 16 --- 17 BY MR. GALLINARO: 18 Q. Okay. And when you reference 19 someone may be blacked out due to excessive 20 alcohol, were you aware, based on [REDACTED] 21 report, that she was not overly intoxicated at 22 the time of the sexual activity? 23 A. I don't remember how much alcohol 24 she had ingested. I don't know.</p>	<p style="text-align: right;">Page 205</p> <p>1 Q. Well, how about being interviewed 2 by the investigators? 3 A. I remember being interviewed one 4 other time, very vaguely. I don't remember if 5 it was two or not. I do remember being 6 interviewed one other time. 7 Q. Okay. Could you turn to the final 8 exhibit, Exhibit-14. 9 A. Okay. 10 --- 11 (Whereupon the document was marked, 12 for identification purposes, as 13 Exhibit-14.) 14 --- 15 BY MR. GALLINARO: 16 Q. Take a moment to review that. I 17 believe there's an email that is in back of it 18 that may also help you, but once you've had a 19 chance to review it, just let me know. 20 A. Okay. I read all that. 21 Q. Okay. So Exhibit-14 is an 22 interview summary of you by Jason Rodocker and 23 Lauren Kozak, dated 11/7/2014. 24 Having reviewed that, do you recall</p>

JANET BOLLER, PSYD - CONFIDENTIAL/UNDER SEAL

<p style="text-align: right;">Page 206</p> <p>1 that you did provide an interview to</p> <p>2 investigators in at least one other Title IX</p> <p>3 matter?</p> <p>4 A. Are you saying in addition to this</p> <p>5 one or that this is the one?</p> <p>6 Q. Well, right now I'm just asking</p> <p>7 about this one.</p> <p>8 A. Okay. Yes. I mean, I read this --</p> <p>9 this. I recall it now, having read this.</p> <p>10 Q. Okay. Do you recall that the</p> <p>11 student who was the complainant in this -- I'm</p> <p>12 sorry.</p> <p>13 Do you recall that the student who</p> <p>14 was the complainant in this case is someone --</p> <p>15 do you recall that the student who was the</p> <p>16 complainant in this case was [REDACTED]</p> <p>17 A. That sounds right.</p> <p>18 Q. Okay. And were you aware that</p> <p>19 [REDACTED] was one of [REDACTED] advisors?</p> <p>20 A. I don't recall if I knew that at</p> <p>21 the time or not.</p> <p>22 Q. Okay. Did you ever discuss [REDACTED]</p> <p>23 [REDACTED] case with [REDACTED]</p> <p>24 A. I would not be permitted to discuss</p>	<p style="text-align: right;">Page 208</p> <p>1 A. So what's the question?</p> <p>2 Q. My question was: Was the reason</p> <p>3 you were providing this interview because you</p> <p>4 had treated [REDACTED]</p> <p>5 A. It's because I had met with her at</p> <p>6 some point when she was a student.</p> <p>7 Q. You met with her in your role as a</p> <p>8 counselor at the SHC, correct?</p> <p>9 A. Correct.</p> <p>10 Q. Okay. So you weren't -- you</p> <p>11 weren't a factual witness somehow involved in</p> <p>12 the underlying incident; this is related to</p> <p>13 your treatment of her, correct?</p> <p>14 A. Yes. I suppose that would be fair</p> <p>15 to say.</p> <p>16 Q. Okay. Do you recall how many times</p> <p>17 you saw her before you provided this testimony</p> <p>18 on her behalf?</p> <p>19 A. No. I have no idea.</p> <p>20 Q. Do you recall how she was referred</p> <p>21 to you?</p> <p>22 A. No.</p> <p>23 Q. Do you recall whether she came to</p> <p>24 you specifically for the purpose of having you</p>
<p style="text-align: right;">Page 207</p> <p>1 anything clinical with another person. That</p> <p>2 would violate confidentiality.</p> <p>3 Q. Did you ever have any discussions</p> <p>4 with the two of them? Given that [REDACTED] had</p> <p>5 asked you based on the recommendation of one of</p> <p>6 her advisors to get this letter, did you ever</p> <p>7 have new followup with [REDACTED] and her advisors?</p> <p>8 A. I don't recall ever talking with</p> <p>9 [REDACTED] advisors.</p> <p>10 Q. Okay. Do you recall how many times</p> <p>11 you had treated -- well, first of all, is the</p> <p>12 reason you provided testimony on behalf of</p> <p>13 [REDACTED] because you had treated her?</p> <p>14 THE WITNESS: Craig, can I answer</p> <p>15 that?</p> <p>16 MR. WOOD: You can't answer</p> <p>17 anything about your clinical relationship</p> <p>18 with [REDACTED] or [REDACTED] because</p> <p>19 in both cases they're protected by HIPAA.</p> <p>20 You can answer whether you met with her</p> <p>21 and during what period of time, but not</p> <p>22 anything about the clinical relationship.</p> <p>23 BY MR. GALLINARO:</p> <p>24 Q. Okay.</p>	<p style="text-align: right;">Page 209</p> <p>1 serve as a witness?</p> <p>2 A. I don't believe so.</p> <p>3 Q. Okay. Do you recall whose idea it</p> <p>4 was for you to act as a witness for her?</p> <p>5 A. Nope.</p> <p>6 Q. Okay. Do you recall, I've</p> <p>7 represented to you the university has said that</p> <p>8 there was another matter where you provided</p> <p>9 witness testimony, which occurred the following</p> <p>10 academic year in 2015/2016.</p> <p>11 Do you recall that?</p> <p>12 A. So, again, if you mean by witness</p> <p>13 like doing something like being interviewed?</p> <p>14 Q. Yes.</p> <p>15 A. That's -- I don't recall. I guess</p> <p>16 that's possible. I was not in front of the</p> <p>17 hearing board as a witness. If there was</p> <p>18 another interview, that's possible, but I don't</p> <p>19 recall anything specific.</p> <p>20 Q. Okay. And I don't want to throw</p> <p>21 you off with the word witness.</p> <p>22 A. Okay.</p> <p>23 Q. When I say witness, in these Title</p> <p>24 IX proceedings, we refer to people who are</p>

JANET BOLLER, PSYD - CONFIDENTIAL/UNDER SEAL

<p style="text-align: right;">Page 210</p> <p>1 interviewed by the investigators as 2 witnesses -- 3 A. Okay. 4 Q. -- even if they don't come before 5 the board. 6 A. Got it. 7 Q. So with that understanding, were 8 you interviewed by the Title IX coordinator -- 9 were you interviewed by the investigators in a 10 Title IX matter for another case, other than 11 [REDACTED] and [REDACTED], that you can 12 recall? 13 A. I mean if they say that I was, I 14 believe that I was, but I don't remember the 15 situation. 16 Q. Have you only participated in Title 17 IX investigations as a witness, as we're using 18 that term, on behalf of complainants? 19 A. So the only two that I recall are 20 for [REDACTED] and [REDACTED] and in both cases they were 21 complainants. 22 Q. Okay. Have you ever -- have you 23 ever acted as a witness on behalf of a male 24 student?</p>	<p style="text-align: right;">Page 212</p> <p>1 A. A situation I knew of or one where 2 I was a witness for that? 3 Q. In one where you were a witness. 4 A. I can't recall a specific time when 5 a respondent pled guilty, so to speak. I don't 6 recall a situation like that. 7 Q. Okay. Have you ever -- you said 8 you've counseled -- you've counseled male 9 students who have experienced assault, correct? 10 A. Yes. Yes, I have. 11 Q. Have you ever counseled male 12 students who were accused of assault? 13 A. There was an occasion where a 14 student presented to our -- what we call, our 15 urgent session in the counseling center, where 16 you don't have to have an appointment ahead of 17 time. You know, you can kind of show up. 18 People know what time of day that is. We 19 rotate who is covering, you know, that spot in 20 the day. And a student had, from my 21 recollection, I might not remember all the 22 details, but he had just learned that he was 23 being investigated for that, a charge related 24 to that and was understandably, you know,</p>
<p style="text-align: right;">Page 211</p> <p>1 A. I don't believe so. Not that I 2 recall, but I don't recall the other incident. 3 Q. Okay. 4 A. I have clinically met with students 5 and worked with students who are men who had 6 reported sexual assault to me, but I don't 7 remember -- I don't remember the situation, 8 so... 9 Q. Okay. Do you recall whether the 10 other -- I know you're not recalling the other 11 matter. I'm trying to figure out how I can ask 12 you a question about it. 13 Do you know if you participated as 14 a witness in any matter that ultimately was 15 withdrawn? 16 A. Because I don't remember the 17 situation, I just can't say. 18 Q. Okay. And I'm just trying to see 19 if I can prompt something, so bear with me. 20 A. Okay. Yeah. 21 Q. Would you have participated as a 22 witness in any matter where a student pled 23 guilty, you know a case where the respondent 24 accepted responsibility for it?</p>	<p style="text-align: right;">Page 213</p> <p>1 distraught at hearing that he was going to be 2 investigated and came to the urgent session, 3 and I was the person covering it. So I did 4 offer support and other resources, and I 5 connected him with a followup with another 6 counselor. 7 Q. Any -- I'm sorry, that echo again. 8 Any other instances that you can recall where 9 you provided counseling to an accused male 10 student? 11 A. Not that I recall. 12 Q. And you said you referred him to a 13 different counselor. Was that within the 14 office? 15 A. Yes. 16 Q. Is there any particular reason why 17 you referred him to someone else? 18 A. I'm very affiliated with all the, 19 you know -- not all, with many of the cases of 20 sexual assault. It's on my bio on our website 21 that students who've experienced it would come 22 to me, and I didn't know if there would be a 23 conflict about someone reaching out to me 24 specifically for help with the support on the</p>




JANET BOLLER, PSYD - CONFIDENTIAL/UNDER SEAL

<p style="text-align: right;">Page 214</p> <p>1 trauma side if I was already seeing him, and 2 thought that it would be better to refer to 3 someone whose expertise wasn't in working with 4 the support side for a complainant. 5 Q. Okay. Is there anyone in the 6 office, the SHC office, that does focus on 7 counseling accused students? 8 A. No. 9 Q. But there are others who don't feel 10 that they're in as conflicted position as you 11 are? 12 A. I imagine so. 13 Q. Are there any counselors that 14 you're aware of who will not work with students 15 who are alleged that they are victims of a 16 sexual assault, sort of the flip side of your 17 situation? 18 A. I don't know that any of them would 19 say they would just actually refuse to do it. 20 Many -- I know at least a couple would have 21 specifically referred them to me or maybe even 22 Rallie Snowden at times because of our 23 experience with it. I'm not -- I don't know 24 that I've ever heard anyone say they won't see</p>	<p style="text-align: right;">Page 216</p> <p>1 Counseling Center, the director is the same. 2 There's one director for health and counseling. 3 We are sometimes referred to as health and 4 counseling, so there is a connection, but 5 they're actually two separate... 6 Q. Just so that we're clear, I'm 7 intending to only have been asking you about 8 your office. 9 A. I understood that, yes. 10 Q. And what should I call it, just 11 so -- 12 A. The Counseling Center. 13 Q. I had asked you if someone comes to 14 the Counseling Center alleging that they had 15 experienced sexual assault, would that 16 typically be steered to you or are there 17 multiple people who handle that? 18 A. So I'd be one of the people it 19 would be steered to, unless, again, the person 20 didn't want to see me or that there was a 21 conflict because I was already seeing someone 22 else who was involved, or something like that. 23 Rallie Snowden might be another one. Those -- 24 we might be the top two, but again, other</p>
<p style="text-align: right;">Page 215</p> <p>1 it. Everyone is equipped to deal with it in an 2 urgent situation, and some would, likewise, 3 maybe then refer to me or Rallie for someone 4 who wanted ongoing care. 5 Q. Okay. If someone comes to the SHC 6 alleging that they have been assaulted, are 7 they -- do you handle most of those or are 8 there multiple people who would potentially 9 respond to that? 10 A. I just want to clarify one thing 11 because I'm worried how it's going to read in 12 the transcript later. So SHC is Student Health 13 Center and I'm at the University Counseling 14 Center. 15 Q. I'm sorry. 16 A. The Health Center -- no, it's okay. 17 I just thought later if I was reviewing the 18 transcript that... 19 So the Health Center is our health 20 clinic, and students might also present there. 21 That's why I just wanted to be clear. They 22 might present there for care, medical care, et 23 cetera, and they would present there because 24 they're open 24 hours. We are not. The</p>	<p style="text-align: right;">Page 217</p> <p>1 people would see someone, and someone might 2 request seeing someone. I would venture that 3 all of us at times, clinically in our 4 professional experiences, have worked with and 5 met with students who have experienced that or 6 an abuse history, just because it's pervasive 7 enough in our culture that someone has that in 8 their background. 9 If someone's presenting for the 10 first time and saying that it was a recent 11 incident, I think that our administrative 12 assistant would probably steer them towards me 13 and Rallie at least as an initial instinct. 14 Q. Okay. We discussed at least the 15 two cases you can recall where you participated 16 as a witness, again with the understanding of 17 the word witness. Have you -- have you ever 18 been told that going forward you should no 19 longer do that? 20 A. I don't recall that. 21 Q. Would you act in that role again if 22 another student came to you and requested it? 23 MR. WOOD: Object to the form. 24 THE WITNESS: So you're -- so if a</p>

JANET BOLLER, PSYD - CONFIDENTIAL/UNDER SEAL

<p style="text-align: right;">Page 218</p> <p>1 student came to me and asked me to provide</p> <p>2 like a letter like I did with [REDACTED]</p> <p>3 BY MR. GALLINARO:</p> <p>4 Q. Sure.</p> <p>5 A. I would at least consider the</p> <p>6 request from the student and try to understand</p> <p>7 what it was they were hoping for with that</p> <p>8 request.</p> <p>9 Q. So you haven't -- you haven't been</p> <p>10 advised by anyone at the university that that</p> <p>11 isn't something that would be appropriate for</p> <p>12 you to do again?</p> <p>13 A. I don't recall that.</p> <p>14 Q. Okay. I'm not suggesting that it</p> <p>15 has happened; I'm just asking --</p> <p>16 A. Yeah. No.</p> <p>17 Q. Okay. So as far as you know, you</p> <p>18 could -- you could do that again for another</p> <p>19 student in another Title IX proceeding?</p> <p>20 A. Yeah. I mean, I'm not often told</p> <p>21 what I can or can't do when it pertains to just</p> <p>22 my clinical opinion or my clinical judgments,</p> <p>23 and, again, that's how I see that letter, what</p> <p>24 the purpose of that letter was. So I don't</p>	<p style="text-align: right;">Page 220</p> <p>1 notes.</p> <p>2 THE WITNESS: Sure.</p> <p>3 MR. GALLINARO: And your counsel</p> <p>4 may have questions for you, but let's go</p> <p>5 back on the record at, let's say, 2:15.</p> <p>6 THE WITNESS: Okay.</p> <p>7 MR. WOOD: And when you come back</p> <p>8 on the record, Micah will take over from</p> <p>9 there.</p> <p>10 ---</p> <p>11 (A short recess was taken.)</p> <p>12 ---</p> <p>13 BY MR. GALLINARO:</p> <p>14 Q. I just had a couple of followup</p> <p>15 questions. Do you recall at the very beginning</p> <p>16 of the deposition I had asked you questions</p> <p>17 about whether you had been deposed before, and</p> <p>18 you identified a couple other cases?</p> <p>19 A. Yes.</p> <p>20 Q. One of which was a sexual assault</p> <p>21 case -- W&amp;L students.</p> <p>22 ---</p> <p>23 (Discussion was held off the</p> <p>24 record.)</p>
<p style="text-align: right;">Page 219</p> <p>1 recall ever being told anything with regard to</p> <p>2 sort of that clinical, how I would proceed</p> <p>3 clinically in that way.</p> <p>4 Q. Do you know if anyone else from the</p> <p>5 Counseling Center has done something similar?</p> <p>6 And by that I mean act as a witness or provide</p> <p>7 a letter in support of someone in a Title IX</p> <p>8 proceeding.</p> <p>9 A. I don't know.</p> <p>10 Q. Have you had any discussions with</p> <p>11 any of your colleagues that would lead you to</p> <p>12 believe that they had done that?</p> <p>13 A. I mean, I can't say that hasn't</p> <p>14 happened, but I don't recall specifically.</p> <p>15 Q. Well, I'm just asking you if you</p> <p>16 have any personal knowledge that anyone has</p> <p>17 done that.</p> <p>18 A. Right. I'm saying I don't recall</p> <p>19 specifically -- like I don't recall</p> <p>20 specifically hearing that from somebody.</p> <p>21 Q. Okay.</p> <p>22 MR. GALLINARO: I'm going to just</p> <p>23 see if -- let's take a five-minute break.</p> <p>24 I think I'm done. I just want to check my</p>	<p style="text-align: right;">Page 221</p> <p>1 ---</p> <p>2 BY MR. GALLINARO:</p> <p>3 Q. All right. So you recall at the</p> <p>4 very beginning of the deposition I had asked</p> <p>5 you questions about other cases in which you</p> <p>6 had been deposed?</p> <p>7 A. Correct. I remember that.</p> <p>8 Q. And you had identified at least one</p> <p>9 case involving sexual assault that involved W&amp;L</p> <p>10 students, correct?</p> <p>11 A. Right.</p> <p>12 Q. Okay. And so now, with that in</p> <p>13 mind and knowing that you were interviewed in a</p> <p>14 case involving [REDACTED] were you aware</p> <p>15 that [REDACTED] case resulted in</p> <p>16 litigation?</p> <p>17 A. Yes.</p> <p>18 Q. And was that the case that you were</p> <p>19 deposed in?</p> <p>20 A. Yes.</p> <p>21 Q. Okay. And can you recall whether</p> <p>22 there were -- I think you said the other one</p> <p>23 had to do with a suicide, correct?</p> <p>24 A. A suicide attempt.</p>

JANET BOLLER, PSYD - CONFIDENTIAL/UNDER SEAL

<p style="text-align: right;">Page 222</p> <p>1 Q. Okay. And there were no other 2 cases involving sexual assault, correct? 3 A. Where I was deposed? No. 4 Q. Okay. I believe those are all the 5 questions that I have, but hang on a second. 6 Oh, were you -- were you called as 7 a witness by W&amp;L or were you called as a 8 witness by the other side in that [REDACTED] 9 litigation, or do you know? 10 A. Do I know? 11 Q. In other words, do you know who 12 asked for your deposition? 13 A. Well, I was deposed by the opposing 14 counsel. That, I remember. If that helps. 15 Q. Okay. 16 A. In other words, they led the 17 questioning. 18 Q. Okay. And that matter was one in 19 which [REDACTED] was a -- was the accusing 20 student, and the lawsuit was brought by the 21 responding student, correct? 22 A. She was the complainant. That's 23 right. 24 Q. But in the litigation -- the</p>	<p style="text-align: right;">Page 224</p> <p>1 (Deposition concluded at 2:20 p.m.) 2 --- 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24</p>
<p style="text-align: right;">Page 223</p> <p>1 litigation was brought by the respondent in 2 that case, correct? 3 A. Yes. I believe so. 4 Q. Okay. Just give me one moment. 5 MR. GALLINARO: I think those are 6 all the questions that I have. Yep, those 7 are all the questions that I have. Thank 8 you for your time. I don't know if your 9 counsel may have some followup. 10 MR. SCHWARTZ: I do not have any 11 questions. 12 MS. SHEARER: But you do want her 13 to read, right? We do want her to read, 14 right? 15 MR. SCHWARTZ: Correct. That's 16 right. She will read. 17 MR. GALLINARO: All right, 18 Dr. Boller, thank you very much for your 19 time today. I appreciate it. And you are 20 free to go. 21 THE WITNESS: You're welcome. 22 --- 23 (Witness excused.) 24 ---</p>	<p style="text-align: right;">Page 225</p> <p style="text-align: center;">C E R T I F I C A T E</p> <p>1 2 3 I do hereby certify that I am a Notary 4 Public in good standing, that the aforesaid 5 testimony was taken before me, pursuant to 6 notice, at the time and place indicated; that 7 said deponent was by me duly sworn to tell the 8 truth, the whole truth, and nothing but the 9 truth; that the testimony of said deponent was 10 correctly recorded in machine shorthand by me 11 and thereafter transcribed under my supervision 12 with computer-aided transcription; that the 13 deposition is a true and correct record of the 14 testimony given by the witness; and that I am 15 neither of counsel nor kin to any party in said 16 action, nor interested in the outcome thereof. 17 18 WITNESS my hand and official seal this 19 28th day of August, 2020. 20 21 22 23 24</p> <p style="text-align: center;"> _____ Theresa F. Franco Notary Public</p>

<p style="text-align: right;">Page 226</p> <p style="text-align: center;">JANET BOLLER, PHD</p> <p style="text-align: center;">INSTRUCTIONS TO WITNESS</p> <p>1</p> <p>2</p> <p>3 Please read your deposition over</p> <p>4 carefully and make any necessary corrections.</p> <p>5 You should state the reason in the appropriate</p> <p>6 space on the errata sheet for any corrections</p> <p>7 that are made.</p> <p>8 After doing so, please sign the errata</p> <p>9 sheet and date it.</p> <p>10 You are signing same subject to the</p> <p>11 changes you have noted on the errata sheet,</p> <p>12 which will be attached to your deposition.</p> <p>13 It is imperative that you return the</p> <p>14 original errata sheet to the deposing attorney</p> <p>15 within thirty (30) days of receipt of the</p> <p>16 deposition transcript by you. If you fail to do</p> <p>17 so, the deposition transcript may be deemed to</p> <p>18 be accurate and may be used in court.</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>	<p style="text-align: right;">Page 228</p> <p style="text-align: center;">ACKNOWLEDGMENT OF DEPONENT</p> <p>1 I, JANET BOLLER, PSYD, do hereby</p> <p>2 certify that I have read the foregoing pages</p> <p>3 _____ to _____ and that the same is a correct</p> <p>4 transcription of the answers given by me to the</p> <p>5 questions therein propounded, except for the</p> <p>6 corrections or changes in form or substance, if</p> <p>7 any, noted in the attached Errata Sheet.</p> <p>8 _____</p> <p>9 DATE SIGNATURE</p> <p>10</p> <p>11 Subscribed and sworn to before me this</p> <p>12 _____ day of _____, 2020.</p> <p>13</p> <p>14 My commission expires:</p> <p>15 _____</p> <p>16 _____</p> <p>17 _____</p> <p>18 Notary Public</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23 Assignment No. 4207492</p> <p>24</p>
<p style="text-align: right;">Page 227</p> <p style="text-align: center;">JANET BOLLER, PHD</p> <p>1 -----</p> <p>2 E R R A T A</p> <p>3 -----</p> <p>4 PAGE LINE CHANGE</p> <p>5 _____</p> <p>6 Reason for Change: _____</p> <p>7 _____</p> <p>8 Reason for Change: _____</p> <p>9 _____</p> <p>10 Reason for Change: _____</p> <p>11 _____</p> <p>12 Reason for Change: _____</p> <p>13 _____</p> <p>14 Reason for Change: _____</p> <p>15 _____</p> <p>16 Reason for Change: _____</p> <p>17 _____</p> <p>18 Reason for Change: _____</p> <p>19 _____</p> <p>20 Reason for Change: _____</p> <p>21 _____</p> <p>22 Reason for Change: _____</p> <p>23 _____</p> <p>24 Assignment Number: 4207492</p>	<p style="text-align: right;">Page 229</p> <p>1 R. Craig Wood, Esquire</p> <p>2 cwood@mcguirewoods.com</p> <p>3 August 28, 2020</p> <p>4 RE: John Doe v. Washington &amp; Lee University</p> <p>5 8/12/2020, Janet Boller, PsyD (#4207492)</p> <p>6 The above-referenced transcript is available for</p> <p>7 review.</p> <p>8 Within the applicable timeframe, the witness should</p> <p>9 read the testimony to verify its accuracy. If there are</p> <p>10 any changes, the witness should note those with the</p> <p>11 reason, on the attached Errata Sheet.</p> <p>12 The witness should sign the Acknowledgment of</p> <p>13 Deponent and Errata and return to the deposing attorney.</p> <p>14 Copies should be sent to all counsel, and to Veritext at</p> <p>15 cs-midatlantic@veritext.com</p> <p>16</p> <p>17 Return completed errata within 30 days from</p> <p>18 receipt of testimony.</p> <p>19 If the witness fails to do so within the time</p> <p>20 allotted, the transcript may be used as if signed.</p> <p>21</p> <p>22 Yours,</p> <p>23 Veritext Legal Solutions</p> <p>24</p> <p>25</p>

[&amp; - abuse]

Page 1

<b>&amp;</b>	<b>1801</b> 1:23	<b>28</b> 3:9 229:3	<b>7</b>
<b>&amp;</b> 229:4	<b>183</b> 4:13	<b>281</b> 165:19 170:5	<b>7</b> 4:4 70:2,7 72:1
<b>0</b>	<b>19</b> 4:22	<b>28th</b> 225:19	<b>70</b> 4:4
<b>00023</b> 1:5	<b>19102</b> 2:4	<b>2:15</b> 220:5	<b>73</b> 4:6
<b>1</b>	<b>19103</b> 1:24	<b>2:20</b> 224:1	<b>757</b> 61:7
	<b>2</b>	<b>2nd</b> 34:6	<b>759</b> 57:6,10
<b>1</b> 3:9 28:9 29:1	<b>2</b> 3:11 38:11 71:24	<b>3</b>	<b>761</b> 63:24
71:21 74:7 98:2,6	<b>20</b> 10:3 35:6	<b>3</b> 3:14 39:23	<b>7th</b> 4:5,10 30:18
98:9	<b>2000s</b> 19:15	<b>30</b> 226:15 229:17	44:18 70:12 121:3
<b>10</b> 4:11 113:13,14	<b>2001</b> 19:15	<b>30th</b> 33:1 36:1	121:8 124:6,19
113:19 134:16	<b>2003</b> 19:16 20:1	<b>38</b> 3:11	125:9
142:9 162:3	<b>2004</b> 20:2	<b>39</b> 3:14	<b>8</b>
<b>10:20</b> 121:8	<b>2007</b> 21:15	<b>3900</b> 2:4	<b>8</b> 4:6 73:21 74:1
<b>11</b> 4:12 137:5,17	<b>2010</b> 21:15 22:12	<b>4</b>	100:7 103:8 106:6
165:19	<b>2011</b> 3:13 38:20	<b>4</b> 3:16 41:23	<b>8/12/2020</b> 229:5
<b>11/15/2015</b> 3:18	52:5,24	<b>40</b> 172:18	<b>9</b>
46:7	<b>2012</b> 29:2	<b>41</b> 3:16	<b>9</b> 4:9 30:18 120:11
<b>11/7/2014</b> 4:17	<b>2013</b> 42:13 45:1	<b>4207492</b> 227:24	120:16 125:5
205:23	<b>2014</b> 204:14	228:23 229:5	<b>9:00</b> 1:18
<b>113</b> 4:11	<b>2015</b> 10:18 30:18	<b>434-977-2558</b> 2:11	<b>a</b>
<b>114</b> 4:22	204:15	<b>45</b> 116:11 119:4	<b>a.m.</b> 1:18 121:8
<b>12</b> 1:10 21:2 89:5	<b>2015/2016</b> 204:16	<b>47</b> 3:17	<b>aa</b> 50:14,15,18
172:18	209:10	<b>4th</b> 29:22	<b>ability</b> 31:3,7 50:7
<b>120</b> 4:9	<b>2016</b> 3:22 4:5,7	<b>5</b>	109:12 120:3
<b>1288</b> 2:10	10:18 33:1 35:19	<b>5</b> 3:17 46:3 51:8	168:6 172:8
<b>12:38-1:10</b> 173:2	36:2 54:14 61:3	71:24	<b>able</b> 34:22 36:17
<b>13</b> 4:13 33:1 35:19	70:12 74:5 75:7	<b>530</b> 2:10	37:16 49:14 67:22
173:10,15	76:12 148:10	<b>54</b> 3:19	80:4 87:16 92:15
<b>137</b> 4:12	<b>2017</b> 4:10,15 114:8	<b>6</b>	115:12 122:19
<b>13th</b> 115:4 124:9	121:4 133:19,23	<b>6</b> 3:4,19 29:22	123:11 125:21
124:20	137:11 174:1	54:7 64:1 71:24	126:10 134:6,7
<b>14</b> 4:16 33:7 98:6	<b>2017/2018</b> 3:16	<b>616</b> 1:16	150:14,15,20
170:12 205:8,13	42:4	<b>652</b> 2:10	154:9,13 160:17
205:21	<b>2020</b> 1:10 225:19	<b>689</b> 76:20	183:18,19
<b>14th</b> 29:2	228:12 229:3	<b>690</b> 81:4 106:6	<b>absolutely</b> 54:1
<b>1500</b> 2:3	<b>205</b> 4:16	<b>693</b> 91:9	85:10
<b>16</b> 35:18 98:8	<b>215-864-9600</b> 2:5	<b>694</b> 103:8	<b>absorbs</b> 189:19
<b>1622</b> 225:22	<b>22902</b> 2:11	<b>6:19</b> 1:5	<b>abuse</b> 58:7 158:23
<b>17</b> 4:15 174:1	<b>24</b> 215:24		159:4 217:6
<b>1800</b> 1:23	<b>24th</b> 114:8 115:2		



[academic - andrew]

Page 2

<b>academic</b> 13:8,11 18:13 204:15,16 209:10 <b>accept</b> 143:19 186:7 200:8 <b>accepted</b> 145:2 211:24 <b>accepting</b> 144:2 <b>access</b> 125:22 <b>account</b> 65:24 97:1 <b>accounting</b> 178:21 <b>accuracy</b> 229:9 <b>accurate</b> 61:17 80:23 89:14 121:4 177:6 180:14 226:18 <b>accurately</b> 138:10 151:7 <b>accusation</b> 104:11 <b>accusations</b> 43:3 <b>accused</b> 85:4 86:10 102:24 103:6 104:2,3,6,22 105:4,24 212:12 213:9 214:7 <b>accuser</b> 84:16,17 85:8 86:12,24 97:12 <b>accuser's</b> 109:12 <b>accusers</b> 97:6 108:23,24 <b>accusing</b> 222:19 <b>acknowledge</b> 5:4,7 <b>acknowledgment</b> 228:1 229:12 <b>act</b> 177:6 194:23 209:4 217:21 219:6 <b>acted</b> 204:1 210:23	<b>action</b> 9:22 130:12 130:15 225:16 <b>actions</b> 77:16 <b>active</b> 72:6 117:6 <b>actively</b> 194:7 196:8 <b>activity</b> 25:11 176:23,24 177:11 178:11,14 202:17 203:22 <b>acts</b> 177:5 191:16 <b>actual</b> 15:12,13 34:16 141:24 <b>acute</b> 105:10 136:15 141:8 143:11 157:22 158:14 160:1 166:15 180:6 181:8 185:11 187:20 <b>acutely</b> 190:4 <b>addition</b> 206:4 <b>additional</b> 75:14 112:17 141:17 <b>additionally</b> 197:23 <b>address</b> 78:24 102:14 105:23 106:3,5 170:14 171:1 177:4 180:9 190:23 <b>addresses</b> 170:24 <b>addressing</b> 108:22 <b>adds</b> 101:14,20,20 <b>adequate</b> 126:10 <b>adhere</b> 194:9 195:11 196:16 <b>adhered</b> 193:23 <b>adjudicate</b> 83:14 <b>adjudicators</b> 83:22 86:5 94:17	97:9 <b>administer</b> 5:9 <b>administered</b> 5:8 <b>administrative</b> 217:11 <b>adolescent</b> 20:8 <b>adolescents</b> 20:7 21:20 <b>adults</b> 20:7 48:10 <b>adversarial</b> 69:16 122:3 <b>advice</b> 67:21 161:8 <b>advised</b> 218:10 <b>advising</b> 95:22 96:4 <b>advisor</b> 30:20 31:2 31:20 32:22 46:22 61:21 121:9 122:13 163:11 <b>advisor's</b> 121:19 <b>advisors</b> 31:8,14 33:19 36:19 55:21 55:21 56:13 125:3 125:7 164:1 206:19 207:6,7,9 <b>affect</b> 12:19 86:7 101:11 121:13 139:11 150:7 162:14 171:6,7 182:10,14 200:15 201:5 202:14,15 <b>affiliated</b> 213:18 <b>aforesaid</b> 225:4 <b>agallinaro</b> 2:5 <b>age</b> 48:11 <b>ago</b> 10:4,19 12:11 13:12 49:17 78:8 131:3 <b>agree</b> 5:17,19 26:21 72:5,8 86:15,22 87:8,13	87:20,24 88:7,9 90:10,23 97:8 104:4 137:21 143:18 145:20 148:23 149:5 167:7 168:4 169:3 169:9,13,16,19 173:23 193:2 <b>agreed</b> 131:11 <b>agreeing</b> 195:18 <b>agreement</b> 5:13,14 5:23 <b>ah</b> 90:1 <b>ahead</b> 72:23 85:17 174:16 192:23 212:16 <b>aided</b> 225:12 <b>aids</b> 12:23 19:3 154:4 <b>alcohol</b> 193:10 198:2 203:20,23 <b>allegation</b> 104:15 104:16,18 <b>alleged</b> 47:19 139:10 214:15 <b>alleges</b> 200:5 <b>alleging</b> 215:6 216:14 <b>allotted</b> 229:20 <b>allow</b> 92:9 <b>allowed</b> 44:24 <b>alternatives</b> 198:9 <b>amalgamation</b> 58:9 <b>ambiguous</b> 106:10 106:16 107:21 108:5,16 109:4 <b>amnesia</b> 166:7 <b>amount</b> 82:24 <b>andrew</b> 2:2 5:16 7:2
--	---	--	---

[andy - associated]

Page 3

<b>andy</b> 85:15	<b>appointments</b> 114:3	99:2 102:20	43:17,24 47:19,19
<b>angry</b> 103:11	<b>appreciate</b> 6:12	112:10,11 138:20	48:9 52:12 57:16
<b>answer</b> 7:14 8:6	8:7 223:19	160:8 161:21,23	61:12 62:6,8,17,24
8:16 13:8 62:19	<b>approach</b> 70:24	161:24 162:11,23	63:10,19 65:9
68:24 69:1,5,6,19	<b>approaches</b> 93:23	164:10,14 165:2	70:11 71:17 74:3
72:23 73:16 80:14	<b>appropriate</b> 65:2	175:4 178:4 188:2	83:3 85:5 86:11
85:15,15 131:15	129:13,17 150:7	188:14 189:13	139:24 140:2,7
148:2 176:4 180:8	180:15 181:11	191:3,5 204:10	145:12 155:12
185:7 188:7,18,24	218:11 226:5	207:5 216:13	159:4,19,22 167:4
189:4 197:17	<b>april</b> 4:10,15	218:1 220:16	179:17 190:13
207:14,16,20	115:4 121:3,8	221:4 222:12	200:19 211:6
<b>answered</b> 103:2	124:6,9,19,20	<b>asking</b> 13:1 69:8	212:9,12 213:20
189:16	125:9 174:1	80:15 94:2 101:2	214:16 216:15
<b>answering</b> 32:9	<b>area</b> 72:21 111:8	104:18 122:12	220:20 221:9
<b>answers</b> 175:2,6,6	140:21	123:19 130:10	222:2
228:4	<b>areas</b> 22:19 89:22	140:9 154:21,22	<b>assaulted</b> 64:9
██████ 7:5 56:9	170:22	155:8,10,17,21	65:3 141:16
56:12 146:13	<b>arrangement</b> 5:11	156:17 157:9	143:22 145:16
194:21	<b>arrive</b> 119:11	158:22 159:11	146:13 157:19
<b>anxiety</b> 59:1	186:17	161:6,7,7,15 162:6	158:11 194:2
118:15 158:19	<b>arrived</b> 128:17	167:1 168:5	215:6
180:7,20,24 181:6	186:20	176:10 177:1	<b>assemble</b> 75:6
185:12	<b>arriving</b> 128:5	184:17 185:14,17	<b>assess</b> 85:6,10
<b>anybody</b> 17:4	154:19	204:10 206:6	87:15 93:24 101:6
<b>anymore</b> 106:14	<b>article</b> 50:3	216:7 218:15	<b>assessed</b> 190:18
<b>anyone's</b> 81:16	<b>articles</b> 12:7,11,14	219:15	<b>assesses</b> 95:10
<b>apologize</b> 17:12	13:2,3,9 14:3,4	<b>asks</b> 56:21	<b>assessing</b> 85:22
191:8	24:21,23 25:9	<b>asleep</b> 138:15	126:15,16 144:12
<b>appear</b> 166:3	49:3,8	139:1,8 176:7	155:17 156:13
183:1 199:13	<b>ascribe</b> 166:6	202:18,20,23	<b>assessment</b> 58:14
<b>appearances</b> 2:1	<b>asd</b> 180:14 182:24	<b>aspect</b> 11:5 109:23	58:20 119:22
<b>appears</b> 29:1,21	184:11 186:21	165:23 166:15	146:6 162:18
30:17 32:5,24	187:6	178:5 188:13	190:10
46:6 78:18 128:8	<b>aside</b> 11:18,19,20	<b>aspects</b> 138:3	<b>assignment</b> 227:24
134:17 189:4	11:20 13:15 63:7	165:3 166:20	228:23
<b>applicable</b> 139:15	<b>asked</b> 8:12,17 9:18	176:11	<b>assist</b> 31:9 57:3
229:8	28:17,17 41:7	<b>assault</b> 4:4,6 10:7	<b>assistance</b> 90:10
<b>apply</b> 84:16 85:7	47:1 53:14 72:20	10:16 14:5,12	<b>assistant</b> 217:12
86:12 97:6	76:6,14 84:1,12	15:1 22:19 23:10	<b>associated</b> 22:21
<b>appointment</b>	85:23 88:22 95:4	24:20 26:21 28:1	22:24 79:18 92:3
116:5,10 212:16		40:19 41:14 43:7	103:13

[association - believes]

Page 4

<b>association</b> 23:22 <b>associative</b> 165:17 165:21 166:17 <b>assume</b> 8:17 35:23 36:3 40:3 46:10 91:16 104:14,17 104:19 123:15 130:11,14 136:18 182:17 186:14 <b>assuming</b> 112:22 163:22 168:15 193:22 <b>assumption</b> 186:1 <b>assumptions</b> 192:16 <b>atixa</b> 15:17 <b>atlantic</b> 1:23 <b>attached</b> 226:12 228:7 229:11 <b>attempt</b> 10:13 221:24 <b>attempted</b> 61:15 62:8 63:2,14 <b>attempts</b> 20:14 151:20 <b>attend</b> 16:12 <b>attended</b> 13:22 14:9,10,16,21,24 15:21 16:11,19,21 16:24 17:9,19 18:3,5 24:1,6 29:17 41:9 47:13 81:20 <b>attending</b> 24:14 <b>attention</b> 158:17 158:18,19 <b>attorney</b> 226:14 229:13 <b>attorneys</b> 5:2 11:21	<b>attributable</b> 180:5 185:9 <b>attribute</b> 67:4 <b>audience</b> 82:10 <b>august</b> 1:10 29:2 33:1 36:1 74:8,15 76:1 89:5 225:19 229:3 <b>author</b> 12:4,9,10 25:6 <b>authored</b> 12:7 <b>authorities</b> 59:17 60:12 <b>authority</b> 59:5 72:11 73:8 <b>available</b> 6:12 115:20 147:14 229:6 <b>avoid</b> 152:11 <b>avoidance</b> 151:11 151:18 170:3,4,5 <b>avoided</b> 152:1 <b>avoids</b> 151:20,21 <b>awake</b> 138:23 <b>aware</b> 49:19,22,24 78:4 87:3 92:16 118:13 127:10,14 127:23 128:1,3,9 133:21 141:5 147:17,22 148:7 153:3 193:10 199:17 200:2,12 203:20 206:18 214:14 221:14 <b>awareness</b> 3:12 30:13 33:24 34:2 38:18	<b>back</b> 3:14,16 9:20 12:12 14:3,23 24:9 40:8,11 41:4 42:3 45:1,2 52:3 52:24 68:5 72:1 74:7 98:6 106:6 120:10 137:4 139:18,19 142:8 149:21 165:15 168:9,20 172:4 173:5 177:15 191:9 205:17 220:5,7 <b>background</b> 12:2 111:15 217:8 <b>baker</b> 20:17 <b>based</b> 62:2 81:12 108:12 115:13 119:19 122:6 136:18 145:24 146:5,23 147:7 150:3 160:10 167:16 172:14 179:13,13 191:13 192:16,18 194:24 203:20 207:5 <b>baseline</b> 66:12 <b>basically</b> 34:20 75:17 <b>basis</b> 185:1 194:1 <b>bear</b> 103:22 211:19 <b>becoming</b> 91:22 92:6,8 <b>beginning</b> 26:9 36:21 78:2 220:15 221:4 <b>behalf</b> 5:17,18 47:11 114:6 207:12 208:18 210:18,23	<b>behavior</b> 20:11,13 20:14 53:1 150:6 <b>behavioral</b> 21:4 144:14 171:8 <b>behaviors</b> 62:18 102:15 <b>belief</b> 190:1 196:21 197:6 <b>believable</b> 42:16 68:17 <b>believe</b> 16:20,23 19:6 25:15 40:14 44:15 48:14 50:11 50:23 51:19 52:7 52:18 56:11 61:16 62:15 64:16 65:2 65:7,12 66:12 71:4 72:9 73:3,3 74:11 76:2,23 78:17 86:6 104:9 109:5,7,10,14 116:14 119:3 133:4,11 135:12 136:3,8,12 142:5 144:8,10 163:12 167:3 170:14 175:4,20 183:4 189:7 194:17 196:12 199:20 201:14 204:1 205:17 209:2 210:14 211:1 219:12 222:4 223:3 <b>believed</b> 78:9 111:15 189:23 196:6 <b>believes</b> 187:21 188:15 195:12 197:16
	<b>b</b> <b>b</b> 3:6 31:20,22 59:15 168:15 169:1,5		

[believing - cautioned]

Page 5

<b>believing</b> 194:1 <b>bell</b> 192:10 <b>bennett</b> 60:8 <b>bennington</b> 18:3 <b>bessel</b> 25:1 59:8,15 <b>best</b> 6:11 7:21 8:9 8:13 10:14 14:17 16:21 18:24 19:14 24:24 31:3,7,13 33:12 46:17 59:14 76:8 77:7 89:9 114:24 120:3 136:9 138:5 151:8 168:6 186:17 <b>beth</b> 27:15 <b>better</b> 129:16,19 161:4 214:2 <b>beyond</b> 68:6 80:22 152:7,8 <b>binder</b> 6:17,21 28:3 <b>bio</b> 213:20 <b>bisexual</b> 30:11 <b>bit</b> 49:11 51:23 52:23 75:11,13,19 82:15 151:19 153:24 181:14 <b>bits</b> 92:20 <b>blacked</b> 198:1 203:19 <b>blatantly</b> 67:2 <b>block</b> 197:23 201:13 <b>blocking</b> 201:22 202:1 203:3 <b>board</b> 4:5 23:5 33:2,13,14 35:20 70:11,17 71:2,6,9 72:17 74:10 76:7 84:8,10 87:4 102:22 123:10	134:23 142:18 147:19 148:8,22 149:19 164:16,18 204:6,22,24 209:17 210:5 <b>bodies</b> 31:18 <b>bodily</b> 189:9 <b>body</b> 25:2 32:11 140:12,19 189:18 <b>boller</b> 1:15,16 3:3 4:8,9,11,16 5:21 6:5 74:5 121:8 173:5 181:14 188:8 197:22 198:2 223:18 226:1 227:1 228:1 229:5 <b>boller's</b> 4:13 <b>bolster</b> 164:6 <b>books</b> 12:5 24:22 24:24 <b>boston</b> 19:20 20:19 <b>bottom</b> 57:7 61:6 64:20 82:2,5 <b>box</b> 2:10 68:18 <b>boy</b> 48:20 <b>brain</b> 89:22 93:4 108:13 <b>brattle</b> 19:22 20:16 <b>breach</b> 10:2 <b>break</b> 31:24 32:3 60:24 110:15 172:22 173:6 219:23 <b>breakfast</b> 88:23 89:2,4,7,7,8,9,9 <b>brief</b> 30:8 <b>briefly</b> 173:22	<b>bring</b> 65:7 <b>bringing</b> 29:2,9,10 34:14,19 <b>brings</b> 47:20 <b>broad</b> 62:17 63:6 111:19 <b>broader</b> 62:24 <b>broadly</b> 63:1 <b>brought</b> 11:3 222:20 223:1 <b>building</b> 157:8 <b>bullet</b> 91:11 93:15 170:7 <b>busy</b> 113:3,7 <b>bystander</b> 29:3,9 29:10,13 34:8,15 34:17,20,22 <b>c</b> <b>c</b> 225:1,1 <b>calendar</b> 98:2 99:22 <b>call</b> 83:1 212:14 216:10 <b>called</b> 15:17 19:22 20:11 25:5 34:19 37:4 39:7 48:4 50:14 74:3 129:13 204:23 222:6,7 <b>calmly</b> 179:4 <b>camouflage</b> 77:16 <b>campbell's</b> 60:5 <b>campus</b> 24:20 25:24 31:11 37:7 50:15,17,23 72:19 151:22,23,24 <b>campuses</b> 14:13 40:13 <b>capacities</b> 43:4 <b>capacity</b> 47:11 <b>capture</b> 8:6	<b>care</b> 215:4,22,22 <b>career</b> 157:6 <b>careful</b> 107:8 <b>carefully</b> 226:4 <b>case</b> 7:3 9:14,20 10:20,23 25:22 27:17 43:2 53:14 85:2 86:18 108:18 118:11 122:14 127:18 129:12,13 130:15,16 131:1 132:16,16 133:18 138:1 144:3 149:12,15,15 154:23 157:1,13 160:6 163:2 165:9 165:9,10 174:18 191:14,23 196:10 199:22 202:17 206:14,16,23 210:10 211:23 220:21 221:9,14 221:15,18 223:2 <b>cases</b> 9:8,11 10:5,7 83:15 158:23 204:19 207:19 210:20 213:19 217:15 220:18 221:5 222:2 <b>catch</b> 81:2 <b>categories</b> 169:21 169:22 <b>category</b> 44:11 166:16 <b>cause</b> 189:24 198:6 <b>caused</b> 187:21,24 188:17 <b>causes</b> 170:20 <b>cautioned</b> 51:1
--	---	---	--

[celebrity - comments]

Page 6

<b>celebrity</b> 43:1 <b>center</b> 17:17 19:3 19:23 20:16,18 22:8,10 26:11 47:18 55:7,15 56:23 57:3 136:6 212:15 215:13,14 215:16,19 216:1 216:12,14 219:5 <b>centre</b> 2:3 <b>certain</b> 17:22 25:21 92:21 159:1 183:18,22 184:1,2 <b>certainly</b> 44:8 62:12 84:23 94:2 99:24 125:20 126:13,20 129:7 151:9 154:12 158:12 160:7 <b>certainty</b> 119:7 167:24 <b>certifications</b> 18:16 <b>certify</b> 225:3 228:2 <b>cetera</b> 108:13 172:11 215:23 <b>chair</b> 164:16 <b>chance</b> 205:19 <b>change</b> 110:6 119:18 156:5 227:4,6,8,10,12,14 227:16,18,20,22 <b>changed</b> 31:5 183:1 <b>changes</b> 53:11 91:17 226:11 228:6 229:10 <b>characteristics</b> 79:20,24	<b>characterize</b> 107:9 134:5 <b>charge</b> 212:23 <b>charitable</b> 23:13 23:19 <b>charities</b> 22:22 <b>charity</b> 23:3 <b>charlottesville</b> 2:11 <b>chart</b> 75:21 117:5 117:6 138:8 <b>cheat</b> 156:16 <b>check</b> 68:18 152:3 152:4 219:24 <b>checked</b> 48:23 <b>checklist</b> 156:16 <b>childhood</b> 18:4 <b>children</b> 21:3,4,20 <b>children's</b> 20:18 <b>chosen</b> 73:11 <b>circumstance</b> 64:24 97:7 102:17 <b>circumstances</b> 66:8,17 129:16 <b>cited</b> 78:16 <b>claim</b> 9:24 11:3,5 88:12 137:21 138:14 142:23 144:19 145:2 164:7 165:13 191:4 <b>claimed</b> 137:23 143:3 <b>claiming</b> 68:16 86:19 <b>claims</b> 10:7 85:3 86:9 87:3 192:13 <b>clarification</b> 154:20 <b>clarified</b> 16:7	<b>clarify</b> 85:11 153:8 157:20 169:6 215:10 <b>class</b> 9:22 <b>classes</b> 114:4 <b>classify</b> 104:10 <b>clear</b> 8:11 14:4 78:15,19 106:9,16 107:20 108:5,16 108:21 109:4 141:19 145:11 167:20,22 168:7 198:7,18 215:21 216:6 <b>clearer</b> 88:21 <b>client</b> 134:23 <b>cliff</b> 134:18 <b>climate</b> 50:16,17 50:23 <b>clinic</b> 19:22,23 20:5 215:20 <b>clinical</b> 17:16 18:8 18:17 21:7 22:6 58:4,23 66:6 95:8 96:6 124:2 145:9 145:23 146:5,22 147:4,7,10,24 148:2,6 149:17 150:8 151:7 152:24 153:11 162:18 165:5 190:10,15 191:5,6 196:20 207:1,17 207:22 218:22,22 219:2 <b>clinically</b> 33:20 66:6 97:19 170:20 171:13,24 211:4 217:3 219:3 <b>clinician</b> 126:13 154:13	<b>close</b> 92:6,18 191:8 <b>closer</b> 88:13 91:20 <b>club</b> 23:6 <b>cognitive</b> 12:19 156:9 171:8 <b>cognitively</b> 189:8 <b>coinciding</b> 131:6 <b>collaborated</b> 100:19,22 <b>collaboration</b> 101:3 <b>colleague</b> 61:20 <b>colleagues</b> 42:19 136:5 219:11 <b>collecting</b> 190:16 <b>collective</b> 171:17 171:21 <b>college</b> 12:22 14:13 18:2,3 19:2 40:12 48:11 61:13 61:14 77:14 <b>column</b> 33:15 <b>come</b> 52:20 57:23 66:7,24 67:1,4,18 67:20,21 68:1 74:17 87:3 101:2 102:24 117:20 122:2 155:6 157:7 161:4 181:2,13 210:4 213:21 220:7 <b>comes</b> 160:22 215:5 216:13 <b>coming</b> 67:7,7 69:14 91:24 116:4 122:5 134:13 144:1 161:5 <b>commencing</b> 1:18 <b>comments</b> 44:21
---	--	---	--



[commission - copied]

Page 7

<b>commission</b> 228:14	<b>conceive</b> 69:14,22	<b>confident</b> 127:20	<b>consistent</b> 51:18
<b>committee</b> 46:24	<b>concentrate</b> 154:13 172:9	<b>confidential</b> 1:12	66:1 108:17
47:8	<b>concentrating</b> 8:23 154:9 172:6	<b>confidentiality</b> 152:8 207:2	109:21,24 116:2
<b>common</b> 28:13	<b>concept</b> 203:4	<b>confirm</b> 74:1,6	116:15 146:16,19
50:12 52:10 57:15	<b>concepts</b> 102:14	<b>confirmed</b> 119:22	146:22 147:2,6
57:20 75:16 87:12	<b>concern</b> 66:14	120:3 126:22	152:5 165:13
87:14,14 88:6	122:6	<b>confirming</b> 83:18	<b>consistently</b> 144:15
92:8,9 93:23 94:3	<b>concerned</b> 122:10	83:20,23	<b>consult</b> 128:4,8
94:6,9 110:18,24	157:17	<b>conflict</b> 99:6	134:9 135:6,10,13
<b>commonly</b> 88:10	<b>concerning</b> 34:24	213:23 216:21	135:24 136:1,2
<b>commonwealth</b> 15:8 18:20	61:11	<b>conflicted</b> 214:10	<b>consultation</b> 134:13
<b>communities</b> 40:13	<b>conclude</b> 167:2	<b>conflicts</b> 95:19	<b>consulted</b> 136:4
<b>community</b> 13:15	178:12 182:4,24	<b>confused</b> 103:11	<b>contact</b> 96:20
25:14 26:2,18	198:20	<b>connected</b> 213:5	125:6 129:8
30:12,15 32:12	<b>concluded</b> 146:24	<b>connection</b> 129:8	<b>contacted</b> 174:3
34:21 35:10 40:23	224:1	216:4	<b>contains</b> 74:24
53:2 55:21 68:7	<b>concluding</b> 145:7	<b>conrad</b> 2:2	<b>content</b> 100:6
72:7 77:15,18	145:15 166:5	<b>conradobrien.com</b> 2:5,6	125:3 135:7,14
<b>comparing</b> 110:19	198:12	<b>conscious</b> 138:23	180:1
<b>comparison</b> 181:16	<b>conclusion</b> 145:15	139:1,7,9 140:2	<b>contents</b> 135:3
<b>competing</b> 85:3	145:20,22 146:12	141:5	<b>contested</b> 194:23
<b>complainant</b> 206:11,14,16	146:15 167:5	<b>consciously</b> 137:22	<b>context</b> 84:15 90:4
214:4 222:22	171:6 184:19	<b>consensual</b> 176:22	<b>contexts</b> 90:9
<b>complainants</b> 210:18,21	186:20	177:5,10,21	<b>continue</b> 19:18
<b>complete</b> 28:22	<b>condition</b> 118:5	178:10,13 191:17	91:12 117:7,13,18
29:17 92:11	120:7 124:12	192:17 194:24	131:4
<b>completed</b> 134:15	171:8 180:5	200:3 201:16	<b>continued</b> 4:1
135:4 229:17	185:10	<b>consent</b> 5:10	182:21
<b>completely</b> 47:23	<b>conditions</b> 158:9	<b>consequences</b> 105:2	<b>continuing</b> 14:23
131:8 132:9	<b>condom</b> 138:16	<b>consider</b> 72:10	119:19
<b>completing</b> 99:18	176:9	138:24 161:18	<b>contract</b> 10:3
<b>composition</b> 148:21,22	<b>conduct</b> 31:13	196:5,9 218:5	<b>contrast</b> 108:14,19
<b>computer</b> 225:12	118:1	<b>considered</b> 59:9	<b>contributed</b> 58:11
	<b>conference</b> 15:13	196:3	<b>conversation</b> 89:3
	16:24 17:5,6,7,9	<b>consistency</b> 196:13	161:2,12
	<b>conferences</b> 13:23		<b>convey</b> 80:3
	14:8,11,15 16:11		<b>coordinator</b> 210:8
	17:20 24:1,7,15		<b>copied</b> 75:17
	81:19		

[copies - day]

Page 8

<b>copies</b> 229:14 <b>coping</b> 127:3 <b>copy</b> 137:6 142:12 <b>corner</b> 61:6 <b>correct</b> 7:6,7,11 11:1,2 14:7 22:10 27:23 28:2 30:4 40:4,5,7,9 41:15 41:16 42:2,7 48:5 61:4 64:9,22 68:9 72:3,4 73:13,17 76:9 79:15 80:12 81:8 82:18 84:16 85:8 97:24 98:19 98:20 103:16,17 105:24 106:5 107:22 111:11 112:14,16,20 114:2,11 119:2 136:22 143:15 144:19,24 145:1,3 145:12 146:13 147:1,14,21 152:19 162:3,4 163:19 165:23 166:2,5 168:1,14 168:18,23 169:9 170:15 172:16 174:2 176:19 179:14 180:9,10 180:16 181:18 185:1 187:13 188:5 191:2 196:3 199:23 204:3 208:8,9,13 212:9 221:7,10,23 222:2 222:21 223:2,15 225:13 228:3 <b>corrections</b> 226:4 226:6 228:6	<b>correctly</b> 74:3 176:13 179:10 225:10 <b>counsel</b> 2:17 5:10 5:23 11:9 53:15 53:24 114:21 220:3 222:14 223:9 225:15 229:14 <b>counseled</b> 212:8,8 212:11 <b>counseling</b> 17:17 21:2 22:7,9 26:7 26:11 47:18 55:7 55:15 56:23 57:3 65:8 67:5 68:8 114:2,9 117:8,21 117:24 127:2,7,9 127:21 128:14 134:3 136:6 149:17 163:16 178:1 212:15 213:9 214:7 215:13 216:1,2,4 216:12,14 219:5 <b>counselor</b> 27:12 55:4 64:13 65:5,6 66:19 127:11 128:2,9,15,16 129:1 133:22 134:1,2 136:24 137:2 145:4 182:2 208:8 213:6,13 <b>counselors</b> 36:15 54:19 55:6 56:6 214:13 <b>couple</b> 29:8 35:14 195:10 214:20 220:14,18 <b>couples</b> 12:24	<b>course</b> 161:1 <b>court</b> 1:1,19 5:2 7:14,17 8:2,6 59:12 226:18 <b>cover</b> 36:9 100:19 100:20 <b>covered</b> 160:12 <b>covering</b> 212:19 213:3 <b>craig</b> 2:9 5:18 72:24 141:12 200:22 207:14 229:1 <b>credibility</b> 83:9 85:7,10,13,23 86:7 87:16 96:13 101:6 101:11,14,21 102:3,7 103:5,15 103:22,24 110:19 191:4 <b>credible</b> 68:14 88:18 90:6 96:24 102:16 <b>criminal</b> 15:7 16:17 92:1 <b>criteria</b> 136:15,20 139:13,18 141:23 143:14,16 146:1,4 160:3 165:16 167:8 168:11 169:14 171:9 172:2 176:1 178:24 180:4 181:8 185:8 192:6 <b>criterion</b> 171:18 182:13 <b>criticism</b> 49:19,22 49:24 <b>criticized</b> 51:3 <b>cross</b> 85:3 86:9	<b>cs</b> 229:15 <b>culled</b> 58:3 <b>culmination</b> 57:23 <b>culture</b> 45:13 217:7 <b>current</b> 48:14 49:2 52:8 109:15 112:21 148:21 184:10 <b>currently</b> 16:8 23:4 109:21 <b>curry</b> 27:15 <b>cut</b> 16:6 43:14 197:2 <b>cv</b> 1:5 <b>cwood</b> 2:12 229:2 <b>cycles</b> 92:10 <b>d</b> <b>d</b> 3:1 18:8 59:16 170:19 171:10,18 <b>daily</b> 155:24 179:1 179:3 <b>data</b> 49:20 87:4 <b>date</b> 24:19 25:12 40:14 117:8 124:20 125:19 137:11,12 200:18 200:24 226:9 228:9 <b>dated</b> 3:18 29:22 30:18 35:18 46:7 74:13 115:4 205:23 <b>dates</b> 14:20 <b>david</b> 76:24 77:9 79:13 <b>day</b> 89:11,21 99:9 113:1,8,9,23 114:4 176:9 190:12 212:18,20 225:19 228:12
--	--	---	--

[days - different]

Page 9

<b>days</b> 99:21 113:1 226:15 229:17 <b>dbt</b> 20:12 <b>deal</b> 23:19,23 24:17 215:1 <b>dealing</b> 59:2 179:17 183:14 <b>dealt</b> 23:14,16 <b>dean</b> 71:4 <b>death</b> 141:24 <b>decades</b> 40:16 <b>deciding</b> 147:19 <b>decision</b> 163:3 <b>deck</b> 74:18 100:4,7 100:8 103:8 110:16 <b>deemed</b> 226:17 <b>defendant</b> 1:8 2:13 5:19 <b>defensive</b> 103:12 <b>defined</b> 63:1 <b>definitely</b> 94:3 99:19 <b>definition</b> 62:13 62:14,16,24 63:5,8 66:4 <b>definitions</b> 50:6 52:7 <b>definitive</b> 198:23 <b>definitively</b> 91:5 110:2 167:10 <b>degrading</b> 43:6 <b>degree</b> 18:8 96:7 119:7 167:24 <b>deliver</b> 35:13 <b>demonstrating</b> 101:13 <b>department</b> 15:7 16:17 92:1 <b>depending</b> 97:11 105:18 182:14	<b>depends</b> 128:21 151:13 160:4 <b>depiction</b> 80:23 <b>deponent</b> 225:7,9 228:1 229:13 <b>deposed</b> 9:2,9,10 9:20 220:17 221:6 221:19 222:3,13 <b>deposing</b> 226:14 229:13 <b>deposition</b> 1:15 5:3,5,6 7:9 8:23 10:15 11:8 42:9 74:21 116:19 122:1 131:12 148:11 173:21 220:16 221:4 222:12 224:1 225:13 226:3,12 226:16,17 <b>depression</b> 156:3 <b>der</b> 25:2 59:8,16 <b>derogatory</b> 43:11 <b>describe</b> 57:14 125:23 131:22 150:8 151:4,8 155:18 176:3 179:1 180:6 185:10 <b>described</b> 14:4 33:18 51:11 145:10 146:3,10 146:21 147:3 149:22 150:2 179:12 195:15 <b>describes</b> 174:22 176:15 <b>describing</b> 38:23 103:9 <b>description</b> 3:8 4:3 32:1 91:17	156:7 <b>designed</b> 20:12 <b>despite</b> 113:4 200:18 <b>detail</b> 18:1 93:1 125:4 151:19 180:23 199:23 <b>details</b> 88:12 90:13 95:6 176:6 178:20 212:22 <b>detecting</b> 12:20 <b>detectives</b> 92:3 <b>determination</b> 107:14 191:4 <b>determine</b> 66:4 104:24 118:4 143:21 154:15 155:8 <b>determining</b> 88:10 154:17 <b>detract</b> 102:2,7 <b>detrimental</b> 165:10 <b>develop</b> 57:19 127:2 <b>development</b> 18:4 ██████ 4:9,11 31:22 47:5 113:12 114:6 120:1 121:1 121:3 136:11 206:23 207:18 ██████ 160:6 206:19 210:11 <b>devoted</b> 112:13 <b>diagnose</b> 105:7 119:6 134:6 190:12 <b>diagnosed</b> 118:15 143:11 182:3 186:19 187:9	<b>diagnoses</b> 95:10 157:17 <b>diagnosing</b> 139:11 <b>diagnosis</b> 58:13 105:9,15 119:12 119:18,22,23 120:8,9 126:15 128:5,17 136:24 137:9 141:8 144:16 145:14 146:5 154:19 158:13 161:19,22 162:6,21,24 166:2 166:23 167:9 169:15 171:4 180:24 181:12,21 182:10,14,23 183:17,19,20,23 184:24 185:5,15 186:2,11,17 187:14 195:23 196:3 <b>diagnostic</b> 57:24 58:15 136:14 139:17 141:23 160:3 172:2 <b>dialectical</b> 20:11 <b>differed</b> 157:14 <b>difference</b> 180:6 185:10 <b>differences</b> 158:15 <b>different</b> 19:11 22:3 25:23 43:4 48:3 49:4 51:14 55:10,14 58:16,18 58:24 71:12 74:18 75:14 82:21 89:21 89:22,24 95:20 97:14 99:4,23 132:9 137:1 150:10 155:9,20
---	---	---	---

[different - earlier]

Page 10

156:1 159:21 163:17 184:18,19 200:23 202:15 213:13 <b>differently</b> 97:11 183:12 <b>difficult</b> 8:5 129:11 189:20 201:1,20,20 <b>difficulty</b> 8:22 154:8 202:10 ████ 206:16,19 207:13,18 208:4 221:14 222:8,19 ████ 206:23 210:11 221:15 <b>direct</b> 139:20 142:10 168:21 <b>directly</b> 35:15 122:22 123:12 134:21 139:23 142:3 <b>director</b> 17:2 216:1,2 <b>disabilities</b> 21:5 <b>disciplinary</b> 147:20 163:7,18 <b>disclosed</b> 37:18 64:11 <b>discovery</b> 3:9 25:21 28:16 36:5 121:1 204:11 <b>discredited</b> 76:24 77:4,20,22,23 78:4 78:19 79:2,10 <b>discuss</b> 77:9 103:14,18,20 125:2 191:12 206:22,24 <b>discussed</b> 43:19 46:12 81:10,13	82:23 94:1 111:7 112:12 122:1 133:5 144:7 187:2 189:13 192:8 202:19 217:14 <b>discussing</b> 61:1,10 103:23 109:11,14 135:2 157:11 <b>discussion</b> 80:9 101:5 103:4 174:7 174:9 176:20 220:23 <b>discussions</b> 207:3 219:10 <b>disorder</b> 105:10 105:11 118:15 119:6 136:15 141:8 143:12 157:22 158:14 160:2 166:16 180:7,8,20 181:8 182:23 185:11,12 187:20 188:15 190:3,6 194:20 <b>disorders</b> 58:16 180:12 <b>display</b> 153:5 <b>dispute</b> 148:24 177:17 <b>disputing</b> 50:3 <b>disregarded</b> 101:22,23 <b>dissolved</b> 39:15 <b>distinct</b> 158:21 <b>distinction</b> 62:7,9 77:3 <b>distract</b> 151:20 <b>distraught</b> 213:1 <b>distress</b> 161:9 170:21 171:12,20 171:24	<b>distressing</b> 150:21 171:19 <b>district</b> 1:1,1 <b>disturbance</b> 154:2 154:6 170:20 <b>disturbances</b> 152:16 <b>disturbed</b> 190:4 <b>diversity</b> 71:15 <b>division</b> 1:1 56:3 <b>doctor</b> 66:13 <b>doctoral</b> 18:8 19:24 <b>document</b> 3:11,19 4:4 28:7 38:9,17 39:21 41:21 42:8 46:1 53:11 54:5 54:10 70:5,10 73:19 74:21 113:17 120:14 124:21 137:15 173:13,18,21 205:11 <b>documents</b> 4:20 11:18,22 25:21 175:22 <b>doe</b> 1:4 2:6 7:4 229:4 <b>doing</b> 6:11 8:4 34:17 39:1 51:3 155:3,14 157:5 164:11,13,17 193:21 209:13 226:8 <b>domain</b> 66:7 85:11 <b>donated</b> 24:3 <b>door</b> 191:9 <b>dot</b> 106:10,10,11 <b>doubting</b> 50:4,5 <b>dr</b> 4:9,11,13,16 6:5 121:8 173:5	181:14 188:8 197:22 198:2 223:18 <b>drafted</b> 162:2 <b>drafting</b> 13:4 <b>drank</b> 200:5,10 <b>draw</b> 156:6 160:15 <b>drawing</b> 155:22 161:3 <b>dreams</b> 150:22 179:1,2,3,6,18,19 180:1,2 202:23 <b>drinking</b> 193:5 <b>drinks</b> 193:13 195:10 <b>drowsy</b> 197:20 <b>drug</b> 66:14 200:12 201:10 <b>drugs</b> 197:18 199:16,19 200:18 200:23,24 <b>dsm</b> 58:16 136:21 137:8 141:22 150:1,4 165:15 168:9,23 169:12 170:5,10 <b>dsm5</b> 4:12 137:6 <b>due</b> 83:5 197:24 198:1 203:19 <b>duly</b> 5:22 225:7 <b>duration</b> 117:15 117:19 158:16 170:13
			<b>e</b>
			<b>e</b> 3:1,6 17:13 37:4 59:15,15,16,22,22 225:1,1 227:2 <b>earlier</b> 10:21 27:10 34:14 36:11 48:2 51:11,19 59:21 92:1 97:5

[earlier - exhibit]

Page 11

<p>112:12 113:22 133:5 136:19 148:11 182:12 189:16 <b>early</b> 19:15 121:24 156:14 <b>easier</b> 87:24 <b>easiest</b> 19:13 <b>echo</b> 18:11 38:2 93:7 213:7 <b>educate</b> 24:19 <b>education</b> 14:10 14:23 18:7,12 <b>educational</b> 18:1 <b>effectively</b> 67:23 <b>effects</b> 81:8 83:5 <b>efforts</b> 27:5,8 71:16 <b>eggs</b> 90:2 <b>eight</b> 154:8 <b>either</b> 8:21 9:5 12:16 13:4 17:5 46:23 53:15 56:6 56:11 77:15 125:2 126:21 130:5,7 134:12 136:24 138:23 160:8 174:5 191:19 194:23 200:16 <b>elaborated</b> 126:22 206:16,19,22 207:13,18 208:4 210:11,20 221:14 221:15 222:8,19 <b>ellipsis</b> 106:11 <b>email</b> 4:9 120:24 121:2,7,23 125:9 163:12 205:17 <b>emails</b> 16:2 <b>emotional</b> 21:4 156:8 171:7</p>	<p>203:11 <b>emotionally</b> 189:8 <b>employ</b> 93:22 <b>employed</b> 22:4,17 <b>employees</b> 55:22 <b>employment</b> 18:22 <b>encoded</b> 92:19 <b>encompass</b> 62:18 <b>encounter</b> 178:6 <b>encountered</b> 66:18 <b>enforcement</b> 92:4 <b>entailed</b> 51:9 <b>entails</b> 31:2 <b>entered</b> 203:14 <b>entire</b> 35:8 99:16 99:20 148:21 157:6 <b>entirety</b> 99:24 <b>environments</b> 43:6 <b>equating</b> 63:9 <b>equipped</b> 215:1 <b>erase</b> 200:12 <b>errata</b> 226:6,8,11 226:14 228:7 229:11,13,17 <b>especially</b> 56:2 92:14,17 104:2 108:19 158:7 <b>esquire</b> 2:2,3,9,9 229:1 <b>essentially</b> 10:2 77:11,20 172:17 199:4 <b>establish</b> 49:10,13 69:15 114:24 <b>established</b> 142:18 142:22,23,24 <b>et</b> 108:13 172:11 215:22</p>	<p><b>evaluate</b> 97:10,14 108:23 <b>evans</b> 71:4 73:5 <b>evening</b> 192:16 <b>event</b> 3:16 41:6 42:4 88:13 89:12 91:20 92:7 97:21 137:22 138:3,6 139:21,22 140:5,6 141:7 142:3,10 143:4,13 145:3,10 145:21,24 146:2 146:10 147:1,3,8 148:24 149:3,10 152:12 158:16 165:23 166:20,21 167:19 168:22 176:2,11,12,16 187:4,22 194:18 201:24 202:2,12 <b>events</b> 41:3 91:14 93:11 109:12 197:23 201:13 202:1 <b>everyday</b> 111:4 <b>evidence</b> 147:13 199:18 <b>evident</b> 82:22 88:14 <b>evolve</b> 93:20 <b>evolved</b> 51:17,23 52:2 124:9 126:4 <b>evolving</b> 91:13 93:11 101:13 109:2 124:17 <b>ex</b> 162:12 <b>exact</b> 81:2 92:15 162:14 <b>exactly</b> 15:6 44:3 65:17 102:19 164:9 166:12</p>	<p>172:3 174:15 187:15 204:9 <b>examination</b> 6:2 118:1 <b>examined</b> 5:23 <b>example</b> 36:20 39:5 66:14 67:1 68:1 92:7 102:15 128:23 129:9 141:11,14,17 169:23 170:2 <b>examples</b> 91:4 130:20 131:24 153:18 <b>excessive</b> 198:1 203:19 <b>exchange</b> 4:9 121:2 <b>excluding</b> 112:21 169:10 <b>exclusively</b> 112:13 <b>excruciating</b> 17:24 <b>excuse</b> 61:5 <b>excused</b> 223:23 <b>executive</b> 50:24 <b>exhibit</b> 3:9,11,14 3:16,17,19 4:4,6,9 4:11,12,13,16 28:9 38:11 39:23 41:23 46:3 51:8 54:7 64:1 70:2,7 71:21 73:21 74:1,7 98:2 98:6,9 100:7 103:8 106:6 113:13,14,19 120:11,11,16 125:5 134:16 137:5,17 142:9 162:3 165:19 173:10,15 188:3,5</p>
---	--	--	--



[exhibit - firmly]

Page 12

205:8,8,13,21 <b>exhibits</b> 4:1 71:24 <b>exist</b> 114:17 158:20 <b>exists</b> 49:23 <b>expand</b> 68:6 <b>expect</b> 53:3 92:10 92:24 <b>expected</b> 26:17 <b>expecting</b> 157:23 <b>experience</b> 48:9 52:10 58:5,23 61:12 62:23 63:13 87:6 105:16 107:12 121:13 122:17,22 123:10 123:21 124:3,10 140:19 141:21 142:5 144:2,3 146:20 148:4 156:4 157:24 159:3,19,22 160:22 162:13 168:17 179:17 187:23 189:21,23 191:1 196:13 197:12 200:17,18 202:8 214:23 <b>experienced</b> 32:18 33:21 37:13 40:18 43:9,17,18 44:5,7 44:9,10 52:11 58:6 67:9 84:22 91:13 93:2 94:5 97:21 108:10 137:22 140:13 141:3 143:4 145:9 145:21,23 146:9 146:24 147:8 150:16 154:5 156:2 161:1	162:22 168:13,16 172:1 179:24 182:20 187:22 188:16 189:8 190:21 202:9 212:9 213:21 216:15 217:5 <b>experiences</b> 34:2 45:12 59:2 106:20 150:8,11 155:19 156:9,9 176:2 189:19 217:4 <b>experiencing</b> 33:22 58:1 139:16 140:1 142:3 152:6 158:2 159:16 160:16 182:6 191:2 192:13,14 <b>expert</b> 59:9 88:5 111:13 200:14 201:6 202:4 <b>expertise</b> 72:21 111:8 112:3 191:5 199:3,10 214:3 <b>experts</b> 81:20 189:7,11 <b>expires</b> 228:14 <b>explain</b> 67:14 93:15 118:5 123:9 198:14 201:15 <b>explained</b> 26:5 182:16 199:12 <b>explaining</b> 32:10 32:10 <b>explanation</b> 106:18 188:10,20 188:22 <b>explanations</b> 198:5 <b>explosion</b> 141:1	<b>exposed</b> 139:23 143:12 145:3 <b>exposure</b> 139:20 141:24 142:10 143:17 168:22 <b>express</b> 197:15 <b>extent</b> 27:6 <b>external</b> 90:9 <b>eye</b> 96:20 <b>eyes</b> 153:11	<b>family</b> 9:16 <b>famous</b> 43:2 <b>far</b> 90:16 218:17 <b>feel</b> 25:10 37:23 44:1,4 67:18 79:22 99:20 104:2 109:23 111:8 113:7 123:2 129:17 160:8 161:16 171:17 184:1 214:9 <b>feeling</b> 8:21 67:10 <b>feels</b> 77:5 128:10 129:11 153:4 187:16 194:15 195:21 <b>fellowship</b> 19:24 <b>felt</b> 78:24 79:11 105:16 122:19 126:9 167:16 183:22 197:19 <b>female</b> 86:24 <b>field</b> 15:2 59:5,9 77:1 78:11 92:4 109:16,19 <b>fifth</b> 9:6 83:1 <b>figure</b> 211:11 <b>figures</b> 43:1 <b>file</b> 14:23 118:9 <b>files</b> 11:18,22 53:6 <b>fill</b> 94:10 <b>filled</b> 95:6,16 96:8 <b>final</b> 197:14 205:7 <b>find</b> 49:4 169:2 <b>finish</b> 7:21,23 85:14,15 131:15 <b>finishing</b> 18:22 19:5,5 <b>firm</b> 53:16 <b>firmly</b> 141:2
--	--	--	--

[first - gallinaro]

Page 13

<b>first</b> 5:22 26:1 29:1 35:3,9 37:11 41:11 44:14 56:2 59:15 64:15 68:4 76:19 95:3 114:7 114:7 115:1,5 121:6 125:24 126:4,12 137:20 143:12 149:11 155:5,11 156:14 156:20 168:11,12 175:24 179:10 188:7,12 189:5 207:11 217:10 <b>five</b> 10:18 45:22 48:15 51:2 61:13 62:6,23 63:13 113:1 151:17 170:3,7 219:23 <b>flagrantly</b> 104:16 <b>flip</b> 120:10 165:15 214:16 <b>flipping</b> 75:16 142:8 168:9 <b>flitting</b> 153:11 <b>floor</b> 138:17 <b>focus</b> 21:17 22:18 22:20 26:21 187:19 214:6 <b>focused</b> 20:8 177:5 177:7 <b>focusing</b> 106:19 135:18,20 <b>folks</b> 33:3 132:24 <b>follow</b> 66:11 146:18 193:3 <b>following</b> 57:15 81:4 137:8 142:2 168:17 209:9 <b>follows</b> 5:24	<b>followup</b> 154:4 207:7 213:5 220:14 223:9 <b>foregoing</b> 228:2 <b>foremost</b> 155:5 <b>forensic</b> 147:23 <b>forensically</b> 148:1 <b>form</b> 61:12 69:2 69:18 72:12,22 73:15 78:5 79:3 80:13 82:16 84:19 87:1,18 88:3,15 89:16 90:14,21 91:2 94:23 96:2 96:16 101:7,18 102:4 104:7 105:5 105:9 106:1 107:23 108:7 109:6,17 111:1 118:17 119:8 122:24 123:14,24 124:14 127:13 128:6,18 129:2 130:2 138:18 140:11 141:10 143:6,23 145:17 146:14 148:12 149:2,4,13 156:20 162:8,17,21,24 163:9,20 164:23 165:11 167:18,23 178:12,15 183:21 184:14 185:2 186:4,22 187:7 192:22 193:6,15 194:11 195:16 196:11 198:11 200:20 201:18 202:20,21 217:23 228:6	<b>formal</b> 18:12 58:14 105:8 <b>formation</b> 93:5 <b>formed</b> 92:19 <b>forming</b> 196:3 <b>forms</b> 55:10 58:7 143:9 <b>formulating</b> 126:15 <b>forth</b> 64:6,7 136:20 137:5 142:8 145:16 148:2 <b>forward</b> 217:18 <b>found</b> 61:19,23 62:3 <b>four</b> 3:13 14:24 38:19 39:8,12,14 41:18 48:4 49:1 51:2 62:5 71:24 <b>fourth</b> 9:5 187:18 <b>framed</b> 85:21 <b>frames</b> 92:15 <b>franco</b> 1:19 225:23 <b>fraternity</b> 152:12 <b>free</b> 223:20 <b>frequency</b> 117:16 <b>frequently</b> 112:24 <b>friends</b> 42:18 152:4 <b>front</b> 55:12 157:4 175:16 204:22,23 209:16 <b>full</b> 92:23 112:19 119:5 <b>fully</b> 161:13 174:22 <b>function</b> 172:8 <b>functioning</b> 156:8 170:22	<b>functions</b> 72:18 <b>further</b> 5:7 44:16 <b>furtherance</b> 163:14,15  <b>g</b>  <b>gad</b> 182:3,19,24 184:7 185:21 186:2,11,19 <b>gallinaro</b> 2:2 3:4 5:16,16 6:4 7:2 28:11 38:13 40:1 42:1 46:5 54:9 60:18,23 69:3,4,10 70:1,9 72:15 73:9 73:23 78:21 79:8 80:17 82:17 85:1 85:16 86:2 87:7 87:22 88:8,19 90:7,18,22 91:7 95:12 96:11 97:4 101:9 102:1,8 104:12 105:20 106:2 108:1,20 109:9,22 110:6,14 111:6 113:21 118:20 119:10 120:18 123:4,17 124:4 125:1 127:17 128:11,22 129:5 130:8 131:16,20 137:19 138:19 140:16 141:13 143:8 144:6 145:19 146:17 148:15 149:7,20 155:1 162:19 163:13 164:4 165:7,14 173:4,17 178:22 184:3,21 185:6 186:5 187:1,10
---	---	---	--

193:1,8,18 194:6 194:12 195:7 196:1,18 201:8,23 203:2,17 205:15 207:23 218:3 219:22 220:3,13 221:2 223:5,17 <b>gap</b> 96:9 <b>gather</b> 53:15 <b>gathering</b> 40:17 <b>gay</b> 30:11 <b>geared</b> 158:1 <b>gender</b> 39:16 <b>general</b> 12:19 21:18 24:13 25:12 26:16 51:12,21 84:9 87:4 90:19 90:24 101:6 128:12 154:23 155:2,3,17 157:12 157:14 159:17 181:5 193:9 <b>generalized</b> 180:7 180:20 185:11 <b>generally</b> 10:11 12:13 74:23 75:2 87:23 90:11 110:18,23 158:18 <b>getting</b> 50:14 57:12 172:19 <b>gig</b> 112:19 <b>girls</b> 45:13 <b>give</b> 14:22 17:23 18:21 29:7 67:24 72:3 88:20,20 92:15 94:3 96:6 128:23 130:20 186:18 223:4 <b>given</b> 13:13,18 52:9 60:11 72:16 75:23 102:17	108:9,9,24 133:7 163:2 207:4 225:14 228:4 <b>giving</b> 42:11 74:24 75:2 93:16 107:16 122:7 194:20 <b>gleaned</b> 79:21 <b>go</b> 3:21 35:14 44:12 54:13 60:18 72:23 85:17 90:16 124:12 150:13 154:18 176:7 189:6 192:22 220:4 223:20 <b>goes</b> 7:4 151:18 170:10 180:8 <b>going</b> 14:3,19 15:12 31:10 32:21 33:21 36:6 67:8 67:22,23 82:12 83:14 85:5 104:23 107:9 110:6,7,16 112:18 137:4 138:8 142:8 149:8 155:12,13,16,24 156:15 161:11 172:11 187:24 188:18 191:8 192:21 204:18 213:1 215:11 217:18 219:22 <b>good</b> 6:5,7,8 73:2 79:11 110:8 119:16 172:19 225:4 <b>grad</b> 18:22 19:5 <b>grade</b> 44:18 45:7,7 <b>graduate</b> 9:20 12:17 18:6 <b>great</b> 6:24 172:23 183:5	<b>ground</b> 7:12 86:4 <b>group</b> 9:24 15:14 37:3,19 39:7 40:24 46:23 55:5 55:19 75:12 133:8 <b>groups</b> 20:9 25:23 35:6 36:15,21 54:20,23,24 56:12 72:19 111:20 <b>guess</b> 20:1 23:1,4 51:12 62:20 72:16 83:1 87:19 91:3 105:19 112:8 131:24,24 132:14 137:20 139:21 143:9 150:12 155:2 156:20 160:14 164:2 167:9 171:10 185:24 187:11 209:15 <b>guidance</b> 161:8 <b>guilty</b> 211:23 212:5	149:3,10 161:10 179:21 190:1,7,7 196:15 197:8 198:3,15,21,23 199:11 200:4 202:11 218:15 219:14 <b>happening</b> 35:7 124:16 126:20 141:6 171:19 <b>harassing</b> 43:10 <b>harassment</b> 33:1 35:20 43:6,18,24 74:9 <b>hard</b> 84:11 105:6 181:22 183:6,24 190:20 <b>harder</b> 58:22 <b>harvey</b> 43:2 <b>hashtag</b> 42:24 <b>hat</b> 9:7 73:11 <b>head</b> 8:4 15:15 37:23 203:8 <b>heading</b> 64:4 <b>health</b> 17:2 22:7 36:17 55:14 118:3 134:11 136:6 215:12,16,19,19 216:2,3 <b>healthcare</b> 118:9 129:18 133:14 <b>healthy</b> 3:20 54:11 <b>hear</b> 37:12 55:17 128:24 149:1,11 <b>heard</b> 7:16 16:1 18:10 50:17 59:24 60:7 86:18 99:8 214:24 <b>hearing</b> 30:20 31:1,8,10,12,14,18 31:20 32:22 33:18
		<b>h</b>	
		<b>h</b> 3:6 <b>half</b> 11:13 <b>hall</b> 18:5 <b>hamill</b> 2:3 <b>hand</b> 57:7 61:6 225:18 <b>handle</b> 215:7 216:17 <b>handy</b> 6:22 <b>hang</b> 222:5 <b>happen</b> 94:14 190:22 201:14 <b>happened</b> 88:1 91:17 94:13 100:11 124:19,22 139:24 148:24	

[hearing - inconsistency]

Page 15

34:3 38:2 79:19 84:8,10 87:4 102:21 121:9 142:18 143:20 149:19 163:11 164:1,16 174:12 179:7 188:1 204:5 204:6,22,24 209:17 213:1 219:20 <b>heavily</b> 197:20 <b>held</b> 22:5 220:23 <b>help</b> 67:7,7,12 68:17 82:5,11,21 163:7 164:6 204:19 205:18 213:24 <b>helped</b> 27:4,8 41:1 89:18 90:5 <b>helpful</b> 19:12 68:13 79:11 122:14 123:9 163:11 <b>helps</b> 222:14 <b>hi</b> 121:8 <b>high</b> 50:5 53:1 80:11 <b>higher</b> 126:2 181:9 <b>highly</b> 188:10 <b>hipaa</b> 207:19 <b>hired</b> 26:4 <b>history</b> 18:2,22 118:3 119:5 159:4 217:6 <b>hmm</b> 34:10 195:4 <b>hold</b> 18:15 95:23 <b>holding</b> 53:1 <b>home</b> 1:16 <b>honed</b> 190:16	<b>honest</b> 138:12 <b>honestly</b> 88:24 99:8 117:22 125:15 <b>honor</b> 31:11 <b>hopefully</b> 23:9 <b>hoping</b> 218:7 <b>horizon</b> 24:4 127:12 128:2 132:24 133:13 134:10 <b>hosted</b> 24:2,7,12 <b>hotline</b> 24:5 <b>hour</b> 11:13 110:8 116:12 119:4 175:11 <b>hours</b> 55:8,8 99:21 215:24 <b>house</b> 2:17 152:12 <b>housing</b> 55:23,24 <b>hsmb</b> 4:7 33:14 74:4 75:21 76:7 76:15 78:3,23 99:12,15 110:17 111:11 134:19 <b>huh</b> 8:5 <b>hundred</b> 167:21 <b>hungry</b> 172:19 <b>hyperaware</b> 153:2 <b>hypervigilance</b> 152:20 153:10 <b>hypothetical</b> 67:24 88:21 128:10 149:15 184:16 187:16 195:20 <b>hypothetically</b> 69:12,22 128:20 129:12 132:3 184:2	<b>i</b> <b>idea</b> 31:22,23 34:20 37:11 56:15 67:4 99:8 115:7 116:23 119:17 121:19 162:20 208:19 209:3 <b>identification</b> 28:8 38:10 39:22 41:22 46:2 54:6 70:6 73:20 113:18 120:15 137:16 173:14 205:12 <b>identified</b> 30:2 204:14 220:18 221:8 <b>identify</b> 58:11 204:12,19 <b>illustrate</b> 121:12 122:17 124:7 162:13,16 <b>illustrating</b> 124:10 <b>image</b> 92:22 <b>imagine</b> 181:24 189:20 190:20 191:11 193:16 194:16 214:12 <b>impact</b> 59:19 101:10 103:15 105:23 110:22 184:10 <b>impacted</b> 126:3 187:14,17 <b>impacts</b> 109:12 <b>impairment</b> 170:21 171:12,24 <b>imperative</b> 226:13 <b>implies</b> 107:14 <b>important</b> 7:19 64:21 161:18 165:22 170:22	<b>impossible</b> 194:15 195:21 <b>impressions</b> 165:6 <b>improve</b> 90:12,24 <b>inability</b> 165:22 166:6,19 176:16 176:22 178:5 198:6 201:16 <b>incident</b> 44:17 45:1 126:3 139:16 140:13 176:6 177:8 179:7 181:15 197:17 208:12 211:2 217:11 <b>include</b> 43:24 52:9 76:18 82:5 84:6 102:9 165:17,22 166:1,22 170:7 190:2 201:24 <b>included</b> 43:9 51:13 78:2 79:1 101:5 121:11 163:24 <b>includes</b> 39:15 64:15 126:18 168:21 <b>including</b> 36:15 43:1 73:5 75:13 84:4 111:10 144:13 199:7 202:12 <b>inclusion</b> 71:16 <b>inclusive</b> 132:1 <b>incoming</b> 35:3 <b>incomplete</b> 83:4 93:18 95:15 108:11 109:1 <b>inconsistency</b> 96:8 97:10
--	---	--	---

[inconsistent - ix]

Page 16

<b>inconsistent</b> 83:5 93:19 94:12,15 95:11,17,24 101:12 109:1 110:5 <b>incorrect</b> 63:17 <b>incredible</b> 89:6 <b>independent</b> 11:22 144:18 <b>indicate</b> 5:13 180:14 <b>indicated</b> 225:6 <b>indication</b> 96:1 <b>indicator</b> 94:22 <b>individual</b> 20:9 30:1 39:16 105:17 149:17 <b>individuals</b> 148:18 189:11 <b>influence</b> 163:7,18 187:4 <b>influenced</b> 181:21 183:12 <b>information</b> 9:13 30:14 37:15 48:19 57:19,23 65:11 79:11 80:2 81:23 82:4 83:21 93:8 97:15 98:19 100:15 108:11 118:19 120:4 123:12 126:10 129:23 142:20 147:16 161:16 184:18,23 187:12 190:17 <b>informed</b> 37:15 59:6,18 60:13 81:14,22 183:9 189:14	<b>ingested</b> 200:13 203:24 <b>inhibitions</b> 193:10 <b>initial</b> 119:21 120:2 217:13 <b>initially</b> 92:14 <b>injurious</b> 20:13 <b>injury</b> 68:12 142:1 197:24 <b>inside</b> 13:14 <b>instance</b> 94:20 <b>instances</b> 213:8 <b>instinct</b> 217:13 <b>institution</b> 18:13 <b>instructions</b> 226:1 <b>intending</b> 216:7 <b>intensive</b> 20:6,6 <b>intent</b> 93:21 <b>interacting</b> 47:10 <b>interaction</b> 157:13 <b>interactions</b> 179:19 <b>intercourse</b> 166:7 176:18 191:24 192:4 <b>interest</b> 73:7 <b>interested</b> 37:6 39:12,13,16 174:12 192:5 225:16 <b>interpretation</b> 146:6 <b>interrogating</b> 159:9 <b>interrupt</b> 19:8 131:13 <b>interrupting</b> 131:14 <b>intervening</b> 124:16	<b>intervention</b> 12:23 19:3 29:13 34:8 34:18 <b>interview</b> 4:14,16 167:17 173:24 174:4,8,23 175:1,9 175:14 197:15 205:22 206:1 208:3 209:18 <b>interviewed</b> 135:16,19 145:10 146:11,21 174:14 175:18 205:1,3,6 209:13 210:1,8,9 221:13 <b>interviewing</b> 12:24 157:18 <b>interviews</b> 157:5 160:2 <b>intoxicated</b> 203:21 <b>introduction</b> 7:2 76:19 <b>intrusive</b> 150:16 <b>investigate</b> 65:14 <b>investigated</b> 212:23 213:2 <b>investigating</b> 92:5 <b>investigation</b> 121:11 142:11,13 144:18,22 146:11 163:24 164:3 188:1 191:13 200:10 <b>investigations</b> 210:17 <b>investigator</b> 66:3 144:20 149:18 159:10 <b>investigator's</b> 12:22	<b>investigators</b> 91:23 92:2 142:20 143:1 144:5 176:21 178:4 205:2 206:2 210:1 210:9 <b>invitation</b> 133:9 <b>invited</b> 46:18 71:2 72:17 98:24 111:9 111:14,16,18 <b>invites</b> 46:19 <b>inviting</b> 100:23 <b>involuntary</b> 150:16 <b>involved</b> 9:14,16 9:18 26:1 27:14 27:19 31:6,17 32:2,7 41:3,8 68:11 69:16 133:3 133:7 208:11 216:22 221:9 <b>involves</b> 44:17 <b>involving</b> 10:5,7 10:23 221:9,14 222:2 <b>issue</b> 24:13 58:12 60:13 122:15 <b>issues</b> 14:12 23:15 23:16,20,24 24:17 24:19 32:23 36:17 37:8 55:14 166:8 <b>it'll</b> 68:17 <b>ix</b> 13:20 14:12 24:17 32:2,7 83:14 86:23 87:4 87:10 135:14 143:20 164:7 204:2 206:2 209:24 210:8,10 210:17 218:19 219:7
--	--	--	---



[jan - kozak's]

Page 17

<b>j</b>	<b>kin</b> 225:15	78:17 81:10,18	174:17,18 175:2
<b>jan</b> 16:23 35:11	<b>kind</b> 20:14 26:17	82:9,19 84:21	175:20 178:17,21
46:20 61:20 70:13	27:2 31:10 32:17	85:3 86:18 87:2	179:5,9 180:23
<b>jana</b> 2:17 69:1	37:14 56:17 58:19	88:23 89:5,15,17	181:2,4,6,6,15
<b>janet</b> 1:15,16 3:3	77:18 93:17,23	89:19,22,24 91:5,9	182:2,12 183:11
4:8 5:21 74:5	102:14 150:12	92:3,22,24 93:22	184:5,5,6,20 185:1
226:1 227:1 228:1	157:2,9 161:24	94:7,8 95:7,14	185:4 186:18
229:5	166:7 168:10	96:4,7,17 97:13,15	187:12,13,16
<b>jarrett</b> 134:18,18	171:16 194:2,19	97:16 98:12	194:22 195:24
<b>jason</b> 29:4 30:3	195:14 199:3	100:14 101:2	196:4,16 198:15
136:2 174:1,5	212:17	102:23 103:1	200:16 201:11
205:22	<b>kinds</b> 45:12	104:24 105:7	202:14 203:10,24
<b>jefferson</b> 2:10	<b>kirk</b> 56:22	106:14,14,17	204:17 205:19
<b>jennifer</b> 2:16	<b>kirkland</b> 2:16	107:15 111:3,3,4	211:10,13,23
<b>jest</b> 120:19	<b>kiss</b> 63:2	111:12,13 112:9	212:17,18,19,24
<b>job</b> 26:5 92:4	<b>knew</b> 118:19	112:22 115:5	213:19,22 214:18
190:12	131:2 132:16,17	118:24 120:19	214:20,23 218:17
<b>john</b> 1:4 2:6 7:4	148:20 174:16,17	121:14,22 123:1,3	219:4,9 222:9,10
229:4	174:18 184:4,22	123:5 124:17,23	222:11 223:8
<b>join</b> 21:23	184:23 185:4,21	125:15,17 126:1,4	<b>knowing</b> 105:12
<b>journals</b> 12:8 13:8	191:23 192:2	126:12,13,14,16	178:10 183:16
13:11	206:20 212:1	126:18 128:7,16	221:13
<b>judge</b> 20:17	<b>knocked</b> 140:24	129:10,18,21	<b>knowledge</b> 25:13
<b>judgment</b> 58:5	<b>know</b> 6:10 8:12	130:13 131:6	31:14 49:2 73:13
<b>judgments</b> 218:22	9:21 10:1 13:13	132:2,21 133:2,6	198:23 219:16
<b>jumping</b> 110:4	15:1,13,19 20:24	136:23 137:3,3	<b>knowledgeable</b>
<b>justice</b> 15:7 16:17	21:1 25:1 26:6	139:2,14 140:14	56:1
92:1	27:19 28:17 29:7	140:21 144:13,22	<b>known</b> 25:3 77:1
<b>k</b>	34:1,1 35:8 36:14	145:5,24 148:13	78:10 140:9
<b>k</b> 37:4 59:16,16	37:17 40:4,15	148:17,17,21	<b>kolk</b> 59:8,16
<b>kauffman</b> 16:23	42:17,19 43:4,5,8	150:7,9 151:23	<b>kolk's</b> 25:2
35:12 46:20 61:20	43:10,22 44:5,6,10	153:15,17 154:14	<b>kozak</b> 4:14,17
<b>kauffman's</b> 70:13	48:10,21,22 49:4	155:6,14,15 157:2	17:20 30:3,23
<b>keep</b> 6:22 38:2	50:2,4 52:11,18	157:4,5,7,9,9	32:8 97:24 98:22
49:2 53:6 87:17	55:16,17,23,24	158:9,13,14,23,24	111:20 114:9
88:2 94:19 95:1	56:1,4,12,13 58:2	159:13 160:10,24	135:3,11 136:1
<b>keeping</b> 25:11	58:6,16,19,24 59:1	161:6,9,10,11	173:24 174:5
<b>keeps</b> 25:2	59:10 62:12,14,18	162:17 163:23	205:23
<b>kids</b> 21:5	66:4,6,11,23 67:23	164:8,12,22,24	<b>kozak's</b> 100:8
	68:11 70:19 72:13	165:2 168:5	
	77:13,13,14,19	171:14,15,20	

[l - looking]

Page 18

<b>l</b>	222:16	<b>lexington</b> 1:17	<b>litigation</b> 7:4,10
<b>l</b> 16:19 17:13,13	<b>lee</b> 1:7 2:13,17,18	21:11,13	68:12 221:16
21:23 59:15,16,22	9:11,15,16 10:6,23	<b>lgbtq</b> 30:15	222:9,24 223:1
<b>label</b> 107:13	13:15,20 16:13	<b>license</b> 134:3	<b>little</b> 49:11 51:23
<b>language</b> 43:11	17:3,18 30:10	<b>licensed</b> 17:16	52:23 75:11,13,19
107:15 149:24	37:1 40:20,22	18:17 134:2	82:15 109:1
150:10	56:20 71:16 78:13	<b>licenses</b> 18:15	151:19 153:24
<b>large</b> 99:21 192:15	112:15 117:19	<b>lied</b> 67:2,19	172:19 181:13
<b>largely</b> 67:15	133:24 229:4	<b>lieu</b> 5:8	<b>lives</b> 43:11 56:2
109:20	<b>left</b> 60:24 99:18	<b>life</b> 36:19 54:19	<b>llp</b> 2:8
<b>latitude</b> 109:1	<b>legal</b> 1:22 10:2	55:20 155:24	<b>local</b> 21:19 23:5
<b>lauren</b> 17:20 30:3	62:13 63:5,7	156:4	24:4
30:22 32:5,8	148:3 229:23	<b>likelihood</b> 127:3	<b>location</b> 62:14,15
97:24 98:21 99:8	<b>legitimately</b> 68:21	<b>likes</b> 96:20	<b>long</b> 11:11 13:11
100:3,8 111:19	<b>length</b> 116:3	<b>likewise</b> 215:2	31:4 55:8 115:16
114:9 135:3,11	<b>lesbian</b> 30:11	<b>limited</b> 113:5	116:24 117:13
136:1 173:24	<b>letter</b> 4:11 113:12	<b>limits</b> 152:8	131:1,2 175:8
174:5 205:23	114:5 115:4,6,9,12	<b>line</b> 4:21 47:4	<b>longer</b> 27:13,15
<b>lauren's</b> 100:2	117:3,4,8 121:10	227:4	29:12 34:18
<b>law</b> 35:4 53:16	121:12,20 123:9	<b>lines</b> 44:7 55:12	117:21 217:19
92:4	124:6,9 125:3,12	<b>lisak</b> 77:10 79:13	<b>look</b> 11:17 40:3
<b>lawsuit</b> 222:20	125:24 126:8,11	<b>lisak's</b> 77:1	42:5 53:4 70:21
<b>lawyer</b> 68:13,16	126:23 127:20	<b>list</b> 28:22 29:16	75:4 82:1 96:20
122:3	134:16 135:3,7,11	46:22 57:20 58:20	97:20 98:6 103:7
<b>lay</b> 110:23 111:3	135:15,17 137:5	158:9 160:23	117:2 120:20,21
<b>layout</b> 171:9	139:19 145:8,16	167:11	121:4 139:13
<b>lead</b> 12:9 219:11	147:18 148:4,9	<b>listed</b> 33:15 35:12	141:22 153:10
<b>leader</b> 3:21 54:14	160:11 161:24	36:5 47:4 57:1	168:20 169:6
54:17 55:3 56:17	162:2,12 163:23	70:13 71:21 98:11	170:4 189:2
61:1	166:3,5 168:20	146:1 167:8 169:4	<b>looked</b> 51:19
<b>leaders</b> 55:20	169:2 170:23	169:14 170:13	99:22 110:2
<b>leadership</b> 23:2,13	182:7,12 183:23	175:24 176:1	116:21 120:22
54:20	185:19 207:6	180:4 185:8	137:11 173:22
<b>leading</b> 202:1	218:2,23,24 219:7	<b>listening</b> 66:9	<b>looking</b> 14:22 45:2
<b>learned</b> 137:23	<b>letting</b> 93:21 95:7	126:14 155:4	51:7 52:3 98:4
138:15 212:22	96:7	161:14	100:7 115:18
<b>learning</b> 139:23	<b>level</b> 43:10,24	<b>listserv</b> 16:4,7	138:11 143:13
141:20	<b>levine</b> 25:7 59:21	<b>literally</b> 42:19	149:21 152:22
<b>leave</b> 99:2	<b>lexapro</b> 118:16	203:8	156:22 160:10
<b>led</b> 180:20 182:19	182:4 186:12	<b>literature</b> 57:24	169:23 172:4
183:20 184:7		109:19	178:17 188:23

[lookout - mentioned]

Page 19

<b>lookout</b> 158:10	205:11	138:9 139:3	<b>meetings</b> 114:13
<b>looks</b> 52:13,16	<b>market</b> 1:23 2:3	140:12 142:22	114:16 115:1
<b>lose</b> 131:19	<b>massachusetts</b>	149:14 157:21	116:14,18 117:11
<b>lot</b> 35:5 36:12	19:21	159:8,13 162:11	167:17
49:18 52:16 75:18	<b>masters</b> 18:7	163:21 167:6	<b>meets</b> 136:14
130:16 139:14	<b>match</b> 144:15	168:2 171:12,13	<b>member</b> 23:18,21
155:3,8	<b>material</b> 13:24	171:17 174:16	26:7 40:22 47:7
<b>lots</b> 36:17 93:1	57:24 74:14 75:7	175:19 176:17	56:23 134:18
150:9	75:9 76:11 81:14	181:1,22 183:6	149:19
<b>loud</b> 96:22	<b>materials</b> 16:3	184:15,17 190:14	<b>members</b> 16:12,19
<b>low</b> 43:10	53:17 61:2 63:21	191:20 193:7	21:2 26:10,16
<b>lowers</b> 193:10	71:23 79:1,18	194:14,14 195:17	27:1 32:12 34:21
<b>luder</b> 56:22	93:10 110:20	195:24 200:14	35:10 37:6 46:23
<b>lunch</b> 172:21	175:13,17,21	201:19 204:5	55:15 57:3 74:9
173:2	<b>math</b> 44:18 45:7,7	206:8 209:12	75:22,24 76:7
<b>lynchburg</b> 1:1	<b>matter</b> 10:16	210:13 218:20	78:23 79:19 80:9
<b>m</b>	90:19,24 110:22	219:6,13	81:7 93:17,22
<b>machine</b> 225:10	112:4 128:13	<b>meaning</b> 56:8	95:7,22 133:9
<b>main</b> 1:17 174:24	193:9 204:14,15	<b>means</b> 34:22 35:7	147:19 148:8
<b>majored</b> 18:4	206:3 209:8	82:19 91:16	164:18
<b>making</b> 6:12 9:24	210:10 211:11,14	167:10	<b>memories</b> 90:11
44:1 53:10 77:3	211:22 222:18	<b>meant</b> 187:8	90:24 150:17
78:13 153:2	<b>matters</b> 13:20	195:22	176:2,3,8,10 179:7
192:16	204:2,12	<b>measure</b> 12:18	200:12 202:20
<b>male</b> 79:14 210:23	<b>mcguire</b> 2:8	<b>media</b> 51:3	203:4
212:8,11 213:9	<b>mcguirewoods.c...</b>	<b>medical</b> 12:22	<b>memory</b> 89:14,19
<b>man's</b> 25:6	2:12,12 229:2	19:2 118:5,10	92:11,19 93:5
<b>mandate</b> 161:5	<b>mean</b> 22:23 26:14	119:5 199:18	166:8 200:15
<b>mandated</b> 67:6	36:10 43:14,23	215:22	201:5,21,22 202:1
<b>manifested</b> 170:6	58:13 70:21 72:14	<b>medically</b> 139:2	202:4,7,10,14,15
<b>manner</b> 5:12	79:4 84:11,20,23	<b>medication</b> 8:21	203:5
<b>manual</b> 58:15	88:4 91:3 93:11	<b>medications</b>	<b>men</b> 39:10,13
<b>manuals</b> 12:5	94:7 95:18,21	200:15	77:14 80:11 211:5
<b>manville</b> 20:18	96:9,23 97:15	<b>meet</b> 23:8 65:9	<b>mental</b> 36:17
<b>march</b> 114:8	100:13 105:8	143:10 155:11	55:14 58:15 119:6
115:2	108:6 110:1 111:2	160:3 168:10	133:14 134:11
<b>marked</b> 28:7 38:9	113:1,24 116:2,23	181:10 192:6	156:21
39:21 41:21 46:1	118:22 120:2	<b>meeting</b> 11:12,21	<b>mention</b> 114:7
54:5 70:5 73:19	121:21 128:7	11:24 112:24	<b>mentioned</b> 27:10
113:17 120:14	129:9 132:14	115:2,5,17 125:24	41:13 46:21 59:20
137:15 173:13	133:6 134:17	156:19	61:20 78:8 132:7

[mentions - ██████]

Page 20

<b>mentions</b> 178:24 178:24 <b>mentor's</b> 12:16 <b>merged</b> 48:3 <b>met</b> 11:9 114:7,10 117:23 121:9 126:4 143:14 146:4 165:17 167:8 170:11 207:20 208:5,7 211:4 217:5 <b>method</b> 88:10 154:17 <b>methodology</b> 49:20 77:20 <b>micah</b> 2:9 220:8 <b>mid</b> 1:23 <b>midatlantic</b> 229:15 <b>milwaukee</b> 19:4 <b>mind</b> 36:8 62:7,9 148:14,16 172:21 221:13 <b>mine</b> 40:6 <b>minimal</b> 43:10 <b>minor</b> 53:10,11 <b>minute</b> 60:19 78:8 119:4 219:23 <b>minutes</b> 11:16 110:9 116:12 <b>misconduct</b> 3:12 29:15 31:12 32:19 33:2,21 35:20 37:7 38:18 52:12 62:19 74:9 83:14 84:15 112:6 204:19 <b>misremembering</b> 50:20 <b>misreporting</b> 66:15	<b>missing</b> 171:4 <b>mistake</b> 147:9 196:14 <b>mistaken</b> 196:6,21 197:6 <b>mm</b> 34:10 195:4 <b>moment</b> 13:16 42:17,22 44:16 112:22 120:20 205:16 223:4 <b>money</b> 24:3 <b>month</b> 89:3,12 90:3 <b>month's</b> 74:19 <b>months</b> 91:21 <b>monumental</b> 89:7 89:12 <b>mood</b> 151:2 158:18 159:12 <b>morbid</b> 158:20 <b>morning</b> 6:5,7 11:16 88:23 89:2 138:16 <b>motive</b> 69:15 161:18 <b>mouth</b> 159:9 <b>move</b> 189:17 <b>moved</b> 19:20 21:11 <b>movement</b> 42:24 <b>mschwartz</b> 2:12 <b>multiple</b> 29:19 58:4,7 61:23 215:8 216:17 <b>multitude</b> 201:3 <b>mutually</b> 134:11	34:16 45:8,18 46:9,21 49:15 50:3 57:1 59:9,10 59:15,16,21 60:8 60:15 70:12,13 77:1,2 78:9 81:17 98:3,14 <b>named</b> 9:12,17 25:7 <b>names</b> 15:3,13 33:14 47:4 60:1 60:10 81:20 <b>narrative</b> 91:13 92:23 93:11 101:13 <b>national</b> 40:11 <b>nationally</b> 87:5 <b>natural</b> 104:1 <b>nature</b> 9:8 12:14 20:3,21,23 31:5 33:10 34:11 70:16 70:23 102:10 109:13 <b>near</b> 152:12 <b>necessarily</b> 43:23 79:22 82:10 94:21 96:9,23 104:9 130:6 151:13 185:16 203:6 <b>necessary</b> 141:7 226:4 <b>need</b> 17:24 28:23 59:12 76:16 97:17 151:6 161:15,16 168:16 169:18 181:9 <b>needed</b> 11:4 68:21 78:24 82:23 <b>negative</b> 101:17 151:2	<b>neither</b> 184:6 225:15 <b>never</b> 89:8 188:4,9 188:19 190:14 192:3 <b>nevertheless</b> 107:20 108:4 <b>new</b> 52:20 53:11 156:13 207:7 <b>night</b> 3:15,16 40:8 40:11 41:4 42:3 72:2 195:10 <b>nine</b> 168:17 169:2 169:3,10,12,18 170:12 <b>nodding</b> 8:4 <b>nonconsensual</b> 176:17,23 177:6 177:11 191:18,24 192:2,18 194:24 202:16 <b>nonprofit</b> 23:3,13 23:18 <b>nonprofits</b> 22:22 <b>nonverbal</b> 144:14 <b>nope</b> 18:14 150:23 209:5 ██████ 4:9,11 31:21 47:4 56:8,11 113:12 114:6 120:1,24 121:3 123:6 125:8 127:1 136:11,14 137:21 145:9,21 148:5 150:2 151:19 153:21 157:13 160:6 161:21 162:11 166:23 171:20 172:1 174:17 176:2,5 177:9,24 179:3,14
---	--	--	--

[REDACTED] - okay]

Page 21

181:15 189:22 190:6 193:20 194:22 197:15,17 198:8,18 199:16 199:19,21 200:2 202:17 206:19,23 207:4,7,18 210:11 210:20 218:2 [REDACTED] 161:18 163:6,6 176:21 177:18 188:11 199:7 203:20 207:9 <b>normal</b> 116:2,3 197:21 <b>normally</b> 94:18 102:15 129:22 <b>notary</b> 1:20 225:3 225:24 228:18 <b>note</b> 64:19 83:1 96:12 106:8 107:2 108:3 180:11 201:12 229:10 <b>noted</b> 36:11 226:11 228:7 <b>notes</b> 77:12 80:6 80:10,18,22 81:18 81:24 82:3,5,7,13 96:19 103:13 114:14,16 115:19 116:17 117:10 118:9 125:19,22 138:11 151:7,15 152:22 154:7 175:15,20 178:17 180:22 181:3 185:23 220:1 <b>notice</b> 225:6 <b>noticing</b> 153:16 <b>november</b> 29:22	<b>number</b> 3:8 4:3 13:14 14:22 15:19 19:22 25:22,23 28:19 33:3 48:8 48:14,15 50:4 61:11 71:19 140:3 149:23 152:16 169:3 170:3,7 227:24 <b>numbers</b> 57:7 <b>o</b> <b>o</b> 59:16 <b>o'brien</b> 2:2 <b>oath</b> 5:8,9 7:16 <b>object</b> 69:1,18 72:12,22 73:15 78:5 79:3 80:13 82:16 84:19 87:1 87:18 88:3,15 89:16 90:14,21 91:2 94:23 96:2 96:16 101:7,18 102:4 104:7 105:5 106:1 107:23 108:7 109:6,17 111:1 118:17 119:8 122:24 123:14,24 124:14 127:13 128:6,18 129:2 130:2 138:18 140:11 141:10 143:6,23 145:17 146:14 148:12 149:4,13 162:8 163:9,20 164:23 165:11 178:15 183:21 184:14 185:2 186:4,22 187:7 192:21 193:6,15 194:11 195:16	196:11 200:20 201:18 202:21 217:23 <b>objecting</b> 38:3 <b>objection</b> 194:5 195:5 <b>objections</b> 5:11 <b>observable</b> 151:16 152:22,24 154:12 <b>observation</b> 153:23 <b>observations</b> 93:17 124:1 146:6 150:6 <b>observe</b> 64:12 150:14,15,21 151:1,11 152:15 152:20 153:1 154:10 <b>observed</b> 151:5,9 153:20 188:4 <b>observing</b> 130:1 <b>obtain</b> 57:18 <b>obtaining</b> 161:19 <b>occasion</b> 11:10 102:20 134:9 212:13 <b>occasions</b> 41:6 76:7 114:11 <b>occupational</b> 170:21 <b>occur</b> 194:21 198:10 <b>occurred</b> 44:23 124:5 130:7 138:15 139:10 140:9,14 152:13 174:22,24 176:18 177:17 191:14 194:18,18 202:18 204:14,16 209:9	<b>october</b> 4:5 30:18 70:12 <b>offer</b> 27:11 35:6 35:10,14 36:12,14 36:18,20 37:16 40:13 68:8 181:16 199:23 213:4 <b>offered</b> 35:3 37:19 197:18 199:17 <b>offering</b> 20:5 30:10 37:8 199:3 199:6 <b>office</b> 26:16 27:2,7 113:2 191:9 213:14 214:6,6 216:8 <b>official</b> 162:18 225:18 <b>oh</b> 48:20 57:8 83:20 100:12 113:14 126:9 204:4 222:6 <b>okay</b> 6:20,22,24 8:1,15,20 9:1,7 10:5 11:7,7,11 12:1,3 13:13,17 15:9,16 16:16 17:1,4,15,23 18:15 18:21 19:15,17 21:9,16,22 22:1,11 22:11 23:7 24:14 25:10,18 26:10 27:7,22 28:5,24 29:7,21 30:7,19,21 31:1 32:24 33:9 33:10 34:5,7 36:4 38:1,5,7 39:4,18 39:19 40:7 41:11 42:13 43:12,21 45:17,21,23 46:8 48:2,12 49:7,16
---	---	--	---



[okay - paragraph]

Page 22

51:24 53:6 54:3 55:4 57:11 59:14 60:17 61:8 63:7 63:20,23 64:2,15 64:24 68:3,10 69:7 70:3 71:1,22 74:13,20 76:10 77:7 80:8 82:1 84:14 85:16 86:15 86:22 87:8,11 88:9 91:8 93:7,16 98:7,10,10,12 100:12 102:2 104:13,17,21 107:5 108:21 109:10 111:7,22 112:5,21 113:3,11 113:14,15,22 114:5,13,22 115:3 115:8,16,20 116:1 116:13 117:10,23 118:21 119:18,21 120:5,10,12,21,21 120:23 121:6,18 122:9,20 123:8,18 127:10 129:6 132:6,20,23 133:3 133:10 134:15,20 135:23 136:4,18 137:4,20 138:7,13 138:22 139:4,17 140:8,17,23 141:14,19 142:7 142:15,21 143:3,9 143:18 144:17 145:14 146:23 147:5,12 148:7 149:21 150:12,20 151:1,4,11,17 153:19 154:8,16 157:16 159:20,24	160:5,14 163:5 164:15 165:21 166:1,4,11 167:12 167:22 168:9,20 169:1,10,17 170:1 170:2,17,19 171:3 171:11 173:9,11 173:20 174:20 175:8,17 176:15 177:3,22 178:3,9 178:23 179:12 180:3,18 181:13 182:9 184:4 185:20,24 186:3,9 186:13,15,16 187:18 189:6 190:23 191:7,20 191:22 192:12 193:12,19 195:2 196:2,19 197:14 198:11,20 199:9 199:21 200:8 201:12,15 202:6 202:16 203:3,18 205:7,9,20,21 206:8,10,18,22 207:10,24 208:10 208:16 209:3,6,20 209:22 210:3,22 211:3,9,18,20 212:7 214:5 215:5 215:16 217:14 218:14,17 219:21 220:6 221:12,21 222:1,4,15,18 223:4 <b>old</b> 9:7 53:12 <b>once</b> 23:8 72:3 134:15 157:8 170:11 205:18	<b>ones</b> 14:9 36:4 72:3 86:13 97:7 157:22 167:15 <b>ongoing</b> 215:4 <b>open</b> 6:16 28:3 215:24 <b>opening</b> 136:13 <b>operate</b> 186:1 <b>operating</b> 184:8 <b>opine</b> 201:9 <b>opining</b> 190:5 198:4 <b>opinion</b> 119:24 124:2 136:14 145:9,23 147:4,7 147:11,18 148:2,6 149:2 167:23 168:8 178:12,18 187:5 188:9 190:19 191:6 199:7 218:22 <b>opinions</b> 9:19 167:18 <b>opposed</b> 162:21 <b>opposing</b> 222:13 <b>oral</b> 1:15 177:17 177:19 178:6 193:21 200:3,11 <b>order</b> 31:9 33:23 125:12 126:11 143:11 <b>organization</b> 15:17,24 23:3 41:4 48:3,4 50:13 133:4,21 <b>organizations</b> 13:23 15:4 23:14 23:19,23 24:3,7,12 24:17 49:4 52:21 55:2 111:10	<b>orientation</b> 36:22 <b>original</b> 226:14 <b>outcome</b> 127:4 163:7,18 225:16 <b>outdated</b> 77:5 <b>outpatient</b> 20:7 <b>outside</b> 13:20 60:3 <b>outsider</b> 66:5 <b>overall</b> 171:8 <b>overlap</b> 180:12 181:5 <b>overly</b> 203:21 <b>override</b> 53:9  <b>p</b> <b>p</b> 18:8 37:4 <b>p.m.</b> 173:2 224:1 <b>p.o.</b> 2:10 <b>package</b> 6:14 <b>pad</b> 175:19 <b>page</b> 3:3,8 4:3,21 29:1,22 30:17 32:24 33:5,6,8 34:6 35:18 41:11 57:6,14,15 61:6,6 63:24 76:20 77:12 80:7 81:4 82:2 91:8 98:6,8 103:7 106:6 121:7 165:19 170:5 227:4 <b>pages</b> 228:2 <b>paint</b> 88:21 <b>painting</b> 195:18 <b>panel</b> 75:24 79:9 79:19 80:9 81:7 93:17,21 95:7,22 122:21 201:2 <b>paper</b> 175:19 <b>paragraph</b> 41:12 42:5 83:2 126:24 136:13 139:20
--	--	---	---

[paragraph - plaintiff]

Page 23

141:23 142:7,9 145:7 149:23 151:17 152:16 154:8 168:11,21 168:23 169:3 170:14,19 <b>paragraphs</b> 149:22 <b>paren</b> 83:3 <b>parkway</b> 2:10 <b>part</b> 9:21 16:3,7 20:18 26:4 27:15 32:7 35:21 55:2 56:6 81:2 83:12 85:24 93:8 99:21 103:4 129:22 143:17 153:22,23 166:20 177:24 192:1 197:4 <b>participate</b> 47:1 194:8 <b>participated</b> 56:16 196:9 204:20 210:16 211:13,21 217:15 <b>participating</b> 5:3 6:9 13:4 204:21 <b>participation</b> 50:8 <b>particular</b> 21:16 22:18,20 26:20 28:1 45:18 52:4 57:4,21 59:5,10 78:1 79:24 80:5 81:17 84:9 92:20 99:11 105:13 131:1 132:4 151:21 157:16 168:3 189:20 213:16 <b>particularities</b> 94:8 105:18	<b>particularly</b> 193:4 <b>parties</b> 5:10 9:14 56:5,8 177:17 <b>partly</b> 67:3,14 83:5 <b>party</b> 9:12,17 10:24 11:4 225:15 <b>pass</b> 63:22 <b>pasted</b> 75:18 <b>patient</b> 119:12 144:8,10 159:7 <b>patricia</b> 2:3 <b>pattern</b> 197:21 <b>patterns</b> 4:6 74:4 <b>paying</b> 158:17,18 158:19 <b>peer</b> 3:21 36:15,18 54:13,17,18,20 55:3,4,11,12,20 56:6,17 61:1 102:23 <b>peers</b> 37:11 42:18 <b>penetration</b> 138:14 139:10 <b>pennsylvania</b> 1:24 2:4 <b>people</b> 20:12 21:19 29:19 30:6 30:15 32:11 33:23 34:3 35:5 37:12 40:18 44:6,10 45:11 48:24 50:4 50:5 58:6 59:3 65:7 67:4,18 73:4 73:6 83:13 87:15 87:20 88:6 92:3 94:6,9 98:21 100:23 107:9,12 110:19 111:3,12 111:14,17 112:1 133:13 140:22	148:9,24 153:16 155:13 158:22 161:4,5 179:24 190:13 192:4 193:3,12 197:22 201:12 202:9 203:7 209:24 212:18 215:8 216:17,18 217:1 <b>people's</b> 12:18 50:6 90:11 110:23 193:10 <b>percent</b> 167:21 <b>percentage</b> 80:10 80:11 <b>perform</b> 26:17 <b>performed</b> 79:14 <b>performing</b> 177:19 <b>period</b> 36:23 135:21 207:21 <b>periphery</b> 153:17 <b>permitted</b> 206:24 <b>perp</b> 107:3 <b>perp's</b> 106:9 <b>perpetrator</b> 106:24 107:13,19 108:4 179:4,8,20 197:19 <b>perpetrator's</b> 77:16 <b>perpetrators</b> 76:20 77:9 79:15 79:20,24 80:2 <b>person</b> 5:8 32:20 52:10 64:17 65:2 66:6 68:21 84:17 86:21 96:24 97:12 97:18 102:17 103:1 105:3,13 110:23 111:4	128:5 131:2,3,4,7 132:18 134:1 155:4,11 157:24 189:21 207:1 213:3 216:19 <b>personal</b> 41:13 68:12 192:3,18 193:4,23 194:9 195:1,11 219:16 <b>personally</b> 150:14 150:15,20 151:1 <b>perspective</b> 95:8 96:6 <b>pertaining</b> 176:21 <b>pertains</b> 218:21 <b>pervasive</b> 217:6 <b>peter</b> 25:7 59:21 <b>phamill</b> 2:6 <b>phd</b> 226:1 227:1 <b>philadelphia</b> 1:24 2:4 <b>phrase</b> 83:2 107:3 129:19 <b>physical</b> 118:1 197:24 203:11 <b>physically</b> 5:4 <b>pick</b> 73:10 <b>picture</b> 88:22 94:11 97:2 126:17 <b>piece</b> 164:3 165:5 165:8 <b>pieces</b> 75:14 92:20 97:14 <b>pinpoint</b> 58:22 <b>place</b> 225:6 <b>places</b> 6:18 48:21 151:22,23,24 152:11 <b>plaintiff</b> 1:5 2:6 5:17 7:3
---	--	---	---

[plan - probably]

Page 24

<b>plan</b> 131:3	118:23 121:14	<b>preparing</b> 100:15	190:18 199:7
<b>planning</b> 41:8	156:7 183:11,13	<b>prescribed</b> 118:16	212:14
100:16	184:20 198:9	182:4 186:12	<b>presenters</b> 46:10
<b>play</b> 37:10	209:16,18	<b>presence</b> 190:3	<b>presenting</b> 76:12
<b>played</b> 105:13	<b>possibly</b> 12:21	<b>present</b> 2:15 5:5	79:9,17 80:24
<b>please</b> 5:13 19:19	16:10 17:21 50:10	11:9 20:13 27:24	83:21 93:9 98:19
41:18 45:22	67:17 81:21 91:5	32:19 55:11 71:2	118:6 156:13
114:19 121:13	106:10,13,17	71:8 72:18 76:4	195:19 198:18
226:3,8	108:3 128:20	76:14 77:8 82:4	217:9
<b>pled</b> 211:22 212:5	132:15 139:8	84:3 98:24 99:8,9	<b>presently</b> 125:22
<b>point</b> 65:21 91:11	155:8 182:14	99:16,19 100:1,16	<b>presents</b> 111:20
93:15 94:4 95:19	186:18,23	110:20 181:7	<b>preserved</b> 114:20
95:20 97:17	<b>post</b> 19:23 105:9	215:20,22,23	<b>presume</b> 176:17
119:23,24 143:19	181:16	<b>presentation</b> 4:7	<b>pretty</b> 14:19 72:6
143:21 170:7	<b>potential</b> 191:12	36:14,20 37:3	107:8 157:7,10
187:11 208:6	<b>potentially</b> 86:13	40:2 47:2 52:4,8	<b>preventing</b> 29:14
<b>pointed</b> 182:11	97:8 107:18 215:8	57:4 70:21,23	<b>prevention</b> 4:4
<b>points</b> 174:24	<b>practice</b> 21:12,17	74:4 75:1,3 78:3	27:11 29:14 70:11
<b>policy</b> 32:8 62:13	68:6 73:12 82:3	96:15 97:19 98:3	<b>previous</b> 75:9
148:2	91:22 92:8,9	98:15,17 100:24	182:15 183:16
<b>politics</b> 18:5	112:13,18 113:4	102:21 103:4	186:2,11
<b>population</b> 35:8	129:22 134:3	106:22 107:1,17	<b>previously</b> 45:14
113:5	157:14 159:17,20	110:17 126:17	61:10 118:14
<b>portion</b> 99:1,3,18	<b>practices</b> 13:1	144:13 146:22	182:3 186:19
100:2 101:5	64:12 157:12	190:9,10	<b>primarily</b> 20:10
192:15	<b>pre</b> 181:16	<b>presentations</b>	<b>primary</b> 29:14
<b>position</b> 21:9 22:2	<b>predicate</b> 192:22	13:14,19 26:6	<b>principal</b> 12:21
22:5 23:2 101:12	195:6	27:20 36:12 53:7	<b>prior</b> 22:16 180:24
105:14 123:2	<b>preexisting</b> 118:4	55:17 62:2,5,22	181:19 187:3
133:13 177:18,21	185:15	71:6,24 72:2	<b>private</b> 19:21
214:10	<b>prep</b> 11:24	75:18,21 78:14	21:12,17 112:18
<b>positions</b> 19:11	<b>preparation</b> 42:9	81:19 96:5 99:5	<b>privy</b> 147:15
22:16	74:21 81:14	99:23 107:11	<b>probably</b> 14:20
<b>possibilities</b>	116:18 173:21	112:7 133:8	25:1 26:23 27:4,6
198:19 199:6	<b>prepare</b> 11:8	148:10	36:24 37:3,21
<b>possibility</b> 158:13	115:9,12 125:12	<b>presented</b> 13:24	53:9,12 56:18
190:2	183:23	14:1 30:2 32:8	57:21 58:3 59:12
<b>possible</b> 12:10	<b>prepared</b> 4:11	33:3 46:15 61:2	60:1 67:13 73:5
32:23 37:16,24	113:12 117:2,4	66:1 70:17 74:7	74:16 75:17
69:23 84:23 103:9	124:8 136:10	74:15 94:13 98:18	100:12 148:20
105:16,19,23	161:20	122:15 158:6	171:15 217:12

<b>problem</b> 77:18 <b>proceed</b> 173:7 219:2 <b>proceeded</b> 176:23 <b>proceeding</b> 7:13 56:5 69:17 84:15 104:24 122:4 147:21 163:8,19 164:7 203:15 218:19 219:8 <b>proceedings</b> 86:24 209:24 <b>process</b> 31:10,12 31:13,13 32:2,7,9 79:6 95:5 162:15 188:1,18 189:4 <b>processes</b> 12:19 108:13 <b>professional</b> 9:19 119:7 132:8 145:8 147:7,11,23,24 162:16 167:24 217:4 <b>program</b> 20:7,8 21:6 29:11,14 32:5 34:17,18,19 35:2,6,11,13,24 36:16 39:9,10,11 39:13 55:5 57:1 <b>programming</b> 27:11 61:23 70:24 <b>programs</b> 15:4 27:14 35:7,15 <b>project</b> 24:4 127:12 128:1 132:24 133:13 134:10 137:3 <b>projects</b> 13:10 <b>promotion</b> 17:3 <b>prompt</b> 211:19	<b>prompting</b> 122:2 157:2 160:18 <b>prompts</b> 156:21 <b>proposing</b> 198:9 <b>propounded</b> 228:5 <b>protected</b> 207:19 <b>protocol</b> 20:10,15 <b>provide</b> 7:9 10:15 15:19 25:17 26:6 27:2,6 38:23 52:21 53:8,15 65:11 83:13 93:9 98:17 99:1 102:13 122:19 123:12 133:12 134:7,23 148:3 151:18 162:5,17,20,24 206:1 218:1 219:6 <b>provided</b> 3:10 25:22 28:14,18 29:4,19 30:23 35:24 36:8 37:3 39:6 51:17 52:6,7 53:18,24 55:14 97:23 101:1 102:12 119:24 134:22 169:15 175:7,13 204:13 207:12 208:17 209:8 213:9 <b>provider</b> 95:9 118:9,10 129:18 129:24 145:5 <b>providers</b> 133:15 <b>provides</b> 136:13 <b>providing</b> 9:13 21:7 26:2 30:13 62:22 86:4 123:22 124:11 134:11 147:18 148:5 163:16 164:18	208:3 <b>psychiatrist</b> 56:22 <b>psychiatrists</b> 133:14 <b>psychological</b> 119:23 120:6 124:11 <b>psychologist</b> 18:18 22:7 <b>psychologists</b> 133:14 <b>psychology</b> 18:9 <b>psychopathology</b> 12:20 <b>psychotherapy</b> 20:6 <b>psychotic</b> 190:3,6 194:19 <b>psyd</b> 1:15 3:3 4:8 5:21 18:7 74:5 228:1 229:5 <b>ptsd</b> 105:10 157:21 158:14,14 160:2 <b>public</b> 1:20 13:19 43:3 225:4,24 228:18 <b>publicly</b> 43:19 <b>published</b> 12:8 58:17 <b>publishing</b> 137:12 <b>pull</b> 169:23 <b>purporting</b> 148:1 <b>purpose</b> 131:5 163:17 164:20 208:24 218:24 <b>purposely</b> 53:13 <b>purposes</b> 28:8 38:10 39:22 41:22 46:2 54:6 70:6 73:20 104:14	113:18 120:15 135:21 137:16 173:14 186:7 205:12 <b>pursuant</b> 5:22 136:20 225:5 <b>purview</b> 122:18 <b>put</b> 13:15 15:4 63:2 78:7 104:23 159:8 167:15 168:4 <b>putting</b> 100:4
<b>q</b>			
<b>quantity</b> 180:13 <b>queer</b> 30:12 <b>question</b> 7:13,22 7:24 8:12,16 13:7 62:10,19,20 66:10 69:2 83:8,17 85:13,21 86:1,8 89:10,13 94:19 96:13 98:14 166:10 175:3,24 178:23 180:3 186:8 187:19 188:12,13 189:5 197:4,14 204:10 208:1,2 211:12 <b>questioning</b> 222:17 <b>questions</b> 8:7 12:2 32:9 95:3 103:2 104:15 135:22 148:3 154:2 155:8 155:10,16,18 156:15 157:3 158:1 159:1 161:15 175:4 177:4 185:14 204:18 220:4,15 220:16 221:5			

## [questions - recollection]

Page 26

222:5 223:6,7,11 228:5 <b>quick</b> 75:4 <b>quickly</b> 75:15 103:7 <b>quote</b> 49:14 200:24 <b>quoted</b> 48:16 <b>quoting</b> 150:10	75:16 91:12 103:9 103:21 104:1 <b>read</b> 24:24 25:4,4 25:8 49:9,12 59:23 82:8 84:5 92:16 96:18,18 103:10 144:21 176:13 179:10 205:20 206:8,9 215:11 223:13,13 223:16 226:3 228:2 229:9 <b>readily</b> 157:7 <b>reading</b> 24:21,21 24:21 51:4 81:2 <b>reads</b> 145:8 <b>reality</b> 190:3 <b>realize</b> 85:17 <b>really</b> 25:3 26:8 30:12 33:23 41:7 77:3 79:4 82:7,10 89:23 96:19 97:18 105:12 106:19,19 117:15 126:16 128:20 129:12 135:1 138:10 139:14 153:15 159:11,14 160:24 161:13 164:11,13 165:4 178:7,17,19 183:15 185:22 196:15 198:7,15 198:18 204:4 <b>reason</b> 8:20 45:19 67:19 76:11 78:1 78:23 116:13 117:1 123:11 157:12,15 163:6 167:3 182:23 192:1 195:9 197:15 207:12	208:2 213:16 226:5 227:6,8,10 227:12,14,16,18 227:20,22 229:11 <b>reasonable</b> 119:7 167:24 <b>reasons</b> 129:10 <b>rebecca</b> 60:5 <b>recall</b> 10:14 13:4,6 15:10 16:17,22 17:5 19:10 24:8 24:24 26:3 27:16 27:18 32:15 39:1 42:11,23 44:15,19 45:6,14 47:9,10,13 50:7 51:4,6,8 52:1 59:22 63:15 71:1 71:14 74:24 75:2 75:20 76:8 77:8 77:22 79:6,12 80:4 93:13 99:14 100:5,13,18,21 101:4,8 103:3,23 109:12 115:15,18 116:22 117:15,22 118:23 121:18 125:6,7,21 127:15 128:3 134:12 135:1 136:7 137:24 138:2,5,13 140:15 141:2 151:14,24 152:15 153:7,19,22 154:7 154:11 157:15 162:14,23 171:23 174:3,7,9 175:10 176:22 177:1,12 177:18 178:2,3,7,9 181:4 185:22 191:20 192:7 200:7 204:4,21,23	205:24 206:9,10 206:13,15,20 207:8,10 208:16 208:20,23 209:3,6 209:11,15,19 210:12,19 211:2,2 211:9 212:4,6 213:8,11 217:15 217:20 218:13 219:1,14,18,19 220:15 221:3,21 <b>recalled</b> 45:1,15 121:22 <b>recalling</b> 24:11 37:22 211:10 <b>recast</b> 150:3 <b>receipt</b> 226:15 229:18 <b>receive</b> 16:2 55:8 97:16 <b>received</b> 6:14 18:6 102:11 120:24 125:14 <b>receiving</b> 37:14 148:18 <b>recess</b> 60:21 110:12 173:2 220:11 <b>recognize</b> 47:22 94:11 173:18 <b>recognized</b> 112:1 <b>recognizing</b> 55:9 79:2 <b>recollection</b> 31:7 33:13 46:17 70:22 78:6 100:22 125:10 133:20 134:20 136:9 138:21 174:20 212:21
<b>r</b>			
<b>r</b> 2:9 17:13 59:16 225:1 227:2,2 229:1 <b>ra</b> 56:6 <b>raise</b> 122:4 <b>rallie</b> 17:10,13 27:9 30:2 214:22 215:3 216:23 217:13 <b>rally</b> 40:12 <b>range</b> 189:22 198:13 <b>rape</b> 43:7,17 61:14 61:15 62:8,8,12 63:2,5,8,9,13,14 63:18 104:6,23 179:1 195:13 200:18,24 <b>raped</b> 179:5,8 <b>rapes</b> 80:12 <b>rapport</b> 157:8 <b>rare</b> 66:24 <b>ras</b> 36:19 <b>rate</b> 48:16 50:8 <b>reach</b> 35:8 <b>reached</b> 115:8 167:5 184:19 <b>reaching</b> 137:9 213:23 <b>reactions</b> 52:10 57:15,20 59:1			



## [recommendation - reported]

Page 27

<b>recommendation</b> 68:2 207:5	111:22 112:6 121:23 127:7,19	179:1 189:3,5 190:13 208:12	197:7,16,24 198:6 199:4 200:4,11
<b>recommended</b> 164:2	127:21,24 130:23 132:3 139:8 140:3	212:23 <b>relation</b> 158:16	201:16 202:22 203:7,9,23 204:8
<b>record</b> 5:15 60:19 220:5,8,24 225:13	140:6 141:20 142:16,17 143:5	<b>relationship</b> 47:17 192:5 207:17,22	205:3,4,5 210:14 211:7,7,16 212:21
<b>recorded</b> 1:19 179:3 194:3 225:10	145:12 146:11 188:13 189:12	<b>relationships</b> 3:19 3:20 54:11,12	221:7 222:14 <b>remembered</b>
<b>recruit</b> 35:10	<b>refers</b> 31:21 82:20 91:19 141:23	132:23 <b>relaying</b> 162:22	45:20 89:20 192:11 202:13
<b>recurrent</b> 150:16 150:21	<b>reflect</b> 52:19 138:11	<b>relevant</b> 14:11 36:8 45:10,16	<b>remembering</b> 130:24
<b>reduce</b> 127:3	<b>reflected</b> 125:18 160:19 175:5	<b>rely</b> 62:22 <b>remaining</b> 143:14	<b>remembers</b> 176:6 <b>remind</b> 54:21
<b>refer</b> 28:20 54:18 82:24 106:23 137:4 151:6 209:24 214:2 215:3	176:5 179:2 191:14 <b>reflection</b> 44:16	<b>remarked</b> 197:22 <b>remember</b> 9:11	<b>remotely</b> 1:16 2:1 5:7,9,22
<b>reference</b> 31:19 42:15 43:21 48:7 48:8 77:6,21 78:14 95:17 189:10 199:15 203:18	<b>reflects</b> 42:6 101:15 189:19 <b>refreshing</b> 125:10	10:17 13:12 14:20 15:3,12 17:21 19:13 21:1 25:6,9 36:13 39:14 44:24 45:6,8,8 48:1 60:1 71:11 80:22 81:21 82:11,21 84:1 85:19,20 87:24 88:12 89:1,1,4,11 89:18,23 90:2,3,5 90:12 91:23 92:19 100:1 101:3 110:3 118:18,22 121:24 124:15,18 133:17 133:23 135:2 138:2,9 152:14 165:22 166:6,20 167:3,19 168:2,6,8 174:15 175:15 176:5,16 177:5,24 178:5,13,19,20 185:3,4 191:19 192:15 193:21,24 194:10,22 195:3 195:12 196:8	<b>removed</b> 107:10 <b>render</b> 190:1 <b>repeat</b> 107:24 <b>repeated</b> 107:3,7 <b>rephrase</b> 8:13 166:14 <b>report</b> 65:19 108:12 118:7 121:11 126:19 142:11,13 143:2 144:22 145:18 146:3,12 148:19 150:6,10,19,24 152:18 153:23 154:5 164:1,3 165:4 172:15 188:6 190:11 191:13 203:21
<b>referenced</b> 38:14 48:20 182:7 229:6	<b>regard</b> 14:8 62:6 73:6 102:10 111:12,24 134:14 153:21 154:1 189:10 191:1 219:1		
<b>references</b> 49:8 61:9 62:4 64:20 166:19	<b>regarded</b> 164:13 <b>regarding</b> 103:5 129:24		
<b>referencing</b> 86:5	<b>regards</b> 159:17		
<b>referred</b> 3:21 10:22 40:24 45:17 54:13 74:12 91:24 114:9 208:20 213:12,17 214:21 216:3	<b>region</b> 1:23 <b>reiterate</b> 123:20 <b>relate</b> 53:17 176:10 <b>related</b> 10:16 12:16,17,21 13:20 14:24 24:19 25:3 26:24 27:20 30:10 55:17 57:24 158:15 166:8		<b>reported</b> 125:23 142:11,16 144:4 146:7 157:19 158:10 159:21 160:7,9 177:10 179:14 193:20 200:2,3 211:6
<b>referring</b> 6:23 24:9,16 41:14 42:21 43:7 49:8 55:19 56:7 86:21 92:14 95:14			

[reporter - REDACTED]

Page 28

<b>reporter</b> 1:19 5:2 7:14 8:3,6 17:14 59:12 <b>reporting</b> 5:6,12 65:3 154:19 159:18 160:11 200:1 <b>represent</b> 7:3 31:21 120:23 177:14,16 <b>representation</b> 177:23 <b>representative</b> 2:16 <b>represented</b> 165:5 209:7 <b>representing</b> 2:6 2:13 53:16 <b>represents</b> 42:2 109:14 <b>repressed</b> 203:5 <b>request</b> 3:9 4:20 115:11 121:1 122:7 123:23 124:6,7 125:14 163:6 204:11 217:2 218:6,8 <b>requested</b> 148:3 162:9 217:22 <b>requesting</b> 114:21 122:16 186:1 <b>requests</b> 28:16 <b>require</b> 170:11 <b>required</b> 143:10 169:18 <b>requirement</b> 170:24 <b>requires</b> 169:12 <b>research</b> 12:17,22 12:24 13:5 19:4 59:5 73:13 81:12	110:3 <b>researchers</b> 12:11 60:11 <b>residence</b> 54:19 55:20 <b>resident</b> 36:18,19 55:21 <b>residential</b> 55:24 <b>residents</b> 55:23 <b>resonate</b> 89:23 <b>resource</b> 31:16 <b>resources</b> 3:12 38:19 52:18,22 213:4 <b>respond</b> 3:21 54:12 64:11 102:23 215:9 <b>responded</b> 28:16 <b>respondent</b> 84:21 85:8 97:12 103:10 103:22 106:20,23 211:23 212:5 223:1 <b>respondent's</b> 97:17 103:15 108:15 144:23 <b>respondents</b> 102:10 108:23 109:2 <b>responding</b> 55:10 222:21 <b>response</b> 3:9,12 7:24 38:19 121:1 123:23 153:14,15 179:2 198:8 <b>responses</b> 4:7 7:22 8:8 25:21 36:6 74:4 <b>responsibility</b> 32:4 147:20 211:24	<b>responsible</b> 80:11 93:6 <b>rest</b> 110:9 188:23 <b>result</b> 115:11 139:16 194:2 195:14 197:10 <b>resulted</b> 221:15 <b>retread</b> 86:3 <b>retroactive</b> 201:5 <b>retrospectively</b> 183:8 <b>return</b> 226:13 229:13,17 <b>review</b> 11:18,22 62:21 109:18 116:17 118:3 173:20 183:20 205:16,19 229:7 <b>reviewed</b> 42:8 71:23 74:20 138:8 147:13 148:11 205:24 <b>reviewing</b> 25:20 162:3 215:17 <b>right</b> 11:6 15:6 32:6 44:3 57:7,12 61:6 67:20 73:14 76:13 80:20 86:15 94:12,17 97:22 99:13,14 102:22 105:9 108:9 110:15 112:19 114:5 115:22 127:16 133:1 135:10 143:10,16 152:6 154:14 155:19 156:23 157:22 158:20 161:24 163:15 164:17 166:18,24 168:13 170:18	173:6 177:13 180:10 181:18 182:18 184:7,23 187:18 190:17 191:9 193:14 198:21 199:1,24 201:13,17 202:20 203:9 206:6,17 219:18 221:3,11 222:23 223:13,14 223:16,17 <b>rings</b> 192:10 <b>rises</b> 43:23 <b>road</b> 91:21 <b>rodocker</b> 4:14,16 29:4 30:4 136:2 174:1,6 205:22 <b>roe</b> 31:20,21 <b>role</b> 23:13 32:14 32:16 33:17 64:13 65:4,6,14 147:22 147:23 208:7 217:21 <b>roles</b> 22:3 37:9 54:20 61:22 <b>room</b> 5:5 99:1,2 153:13 <b>rotate</b> 212:19 <b>roughly</b> 21:14 22:12 52:14 <b>rule</b> 66:12 192:3 193:24 194:9 195:1,11,13 <b>ruled</b> 167:10,14 <b>rules</b> 7:12 192:19 193:4 <b>running</b> 201:2 <span style="background-color: black; color: black;">REDACTED</span> 7:5 138:20 140:9 146:13 147:20 192:6 193:22
---	--	---	---

[s - set]

Page 29

<b>s</b>	<b>scale</b> 12:18 43:5	86:15 103:8	<b>semester</b> 112:23
<b>s</b> 3:6 18:8 37:4	<b>scared</b> 103:11	105:22 112:2	<b>seminars</b> 13:23
59:15,15	<b>scenario</b> 122:1	113:8,14,23 114:1	14:9,11 24:15
<b>sad</b> 103:12	182:1 183:14	114:1,3,23 115:10	<b>send</b> 134:16
<b>safe</b> 13:1 29:23	189:21 191:11,12	116:4 117:18	<b>sense</b> 31:18 87:12
30:8,9 153:4	192:12 193:19	120:5 121:6,16,21	87:14 88:7 93:23
<b>salient</b> 167:16	194:17,21 195:19	124:17 125:4,11	94:3,6,9 110:18
<b>sat</b> 174:13	196:2	126:24 127:5	126:2 130:19
<b>satisfied</b> 172:1	<b>school</b> 9:21 10:24	128:13 129:15	158:3 183:3
<b>satisfy</b> 170:13	12:17 18:6,23	136:16 152:4	<b>senses</b> 92:21
<b>save</b> 53:10	19:5 20:19 21:3	153:14 160:3	<b>sensitive</b> 32:23
<b>saw</b> 42:13 51:18	155:14	165:3,18,20	<b>sent</b> 134:21 229:14
74:7 94:15 115:6	<b>schwartz</b> 2:9	169:24 170:8	<b>sentence</b> 29:8
138:16 176:9	203:14 223:10,15	171:15 181:17	114:7 127:1 188:7
186:10 208:17	<b>scientific</b> 12:8	188:24 211:18	<b>sentences</b> 189:18
<b>saying</b> 6:9 43:8,16	25:13	214:24 216:20	<b>separate</b> 131:8
63:16 80:16,21	<b>scope</b> 101:1 152:7	217:1 218:23	170:6 216:5
85:22 88:17 89:12	<b>score</b> 25:2	219:23	<b>separated</b> 188:24
90:20 95:18	<b>se</b> 101:3	<b>seeing</b> 75:20 82:13	<b>september</b> 4:7
101:19,20,21	<b>seal</b> 1:12 225:18	112:23 117:7,14	34:6 35:19 74:5,8
108:6,8,17,18	<b>sealed</b> 6:18	125:9 127:11	74:14 76:1
109:8 132:1	<b>second</b> 45:3 85:24	130:1 151:14	<b>sequential</b> 93:1
147:10 155:4	115:6,10 125:12	161:21 185:23	<b>serious</b> 105:1
170:9 176:8	125:16,24 126:6	214:1 216:21	142:1
177:13 181:23	126:23,24 169:7	217:2	<b>serve</b> 31:15 55:23
184:20 187:15	178:23 222:5	<b>seeking</b> 66:15	209:1
190:7,8,9,17 192:9	<b>secondary</b> 12:10	131:7	<b>served</b> 20:24
195:23 197:1	<b>secondly</b> 187:23	<b>seen</b> 47:18 48:20	<b>service</b> 24:5
198:13,20 199:5	188:16	49:7 50:11 62:4	<b>services</b> 15:7 21:7
199:10 202:8	<b>secret</b> 6:19	63:21 75:17	68:8 92:2 134:11
203:6,12 206:4	<b>section</b> 77:12	115:12,13 121:13	<b>session</b> 7:14 114:4
217:10 219:18	165:16	125:13,16,19	116:3 126:12,21
<b>says</b> 30:10 35:16	<b>see</b> 8:3 21:19	131:3 162:13	126:23 212:15
45:5 64:16 81:1	28:12,21 29:5	183:9	213:2
106:8 120:6 121:7	30:22,24 31:19	<b>selected</b> 37:5 55:6	<b>sessions</b> 117:24
127:1 151:18,19	33:6,9 34:23 36:7	<b>self</b> 20:13 37:5	119:4,12,14
163:12,23 165:16	38:20 41:11 42:7	82:22 118:7	160:13 178:1
165:24 170:19	45:5 47:3,5 54:14	172:15 190:11	<b>set</b> 40:14 136:20
176:1,1,5 180:4	55:18 57:1,8,16	<b>seltzer</b> 197:18	145:15 148:2
185:8,8 187:20	69:14 70:14 75:15	199:17 200:6,10	157:21 174:4
188:19 197:15	80:6 83:7,10		

[seton - sort]

Page 30

<b>seton</b> 18:5	<b>sexually</b> 64:8	39:10 52:13,17	<b>slow</b> 197:5
<b>sets</b> 64:6,7	141:16 143:22	102:10,14 132:8	<b>small</b> 19:21 80:10
<b>setting</b> 11:20	157:19 158:11	132:10 219:5	113:5
24:20 63:7 87:10	<b>share</b> 82:9	<b>simply</b> 121:12	<b>smell</b> 92:22
149:18 152:24	<b>shared</b> 62:1	124:7 197:7	<b>smelled</b> 90:1
<b>seven</b> 169:11	100:12,14,16	<b>simultaneously</b>	<b>snowden</b> 17:10,14
<b>seventh</b> 45:7	139:5 180:23	128:15	27:9 30:2 214:22
<b>sex</b> 13:1 177:17,19	184:12	<b>single</b> 39:3 57:22	216:23
178:6 193:21,22	<b>sharing</b> 66:24	64:20 167:11	<b>soccer</b> 23:5
194:8,23 200:3,11	82:12	<b>sitting</b> 8:20,23	<b>social</b> 17:16
201:16	<b>shc</b> 208:8 214:6	<b>situation</b> 9:23 10:3	170:21
<b>sexual</b> 3:11,19,20	215:5,12	32:21 34:4 58:2	<b>socially</b> 172:10
4:4,6 10:7,16 14:5	<b>shearer</b> 2:17	68:20 84:22 86:9	<b>solicit</b> 118:8
14:12 15:1 22:19	223:12	92:12 128:21,23	<b>solutions</b> 1:22
23:10 24:20 26:21	<b>sheet</b> 3:18 46:7	129:14 132:4,16	229:23
28:1 29:15 31:12	156:16 226:6,9,11	134:13 138:12,22	<b>somebody</b> 155:9
32:18 33:2,21	226:14 228:7	179:23 197:13	155:17 219:20
35:20 37:7 38:18	229:11	198:24 210:15	<b>someone's</b> 17:11
40:18 41:14 43:7	<b>shelter</b> 24:5	211:7,17 212:1,6	38:2 86:7 87:16
43:17 48:9 52:11	<b>short</b> 60:21 110:12	214:17 215:2	93:24 102:3,16
54:10,12 57:15	220:11	<b>situations</b> 143:24	126:17 217:9
59:19 60:14 61:12	<b>shorthand</b> 225:10	<b>six</b> 54:2 71:20	<b>soon</b> 121:14
62:6,8,16,24 63:10	<b>show</b> 36:6 175:22	152:16	<b>sooner</b> 88:18
63:19 65:8 70:11	212:17	<b>skepticism</b> 49:23	<b>sorry</b> 14:2 16:5,6
71:17 74:3,9 83:3	<b>showed</b> 11:23 98:2	68:20 69:8	18:10 19:8,9
83:14 84:15 85:4	99:22	<b>skills</b> 34:22	20:22 33:5,7,8
86:11 112:6	<b>shown</b> 171:20	<b>skipped</b> 120:11	38:1,3 43:14
138:14 139:10,24	<b>side</b> 149:11 214:1	<b>sleep</b> 92:10 152:16	44:13 60:2 83:16
140:2,6 142:1	214:4,16 222:8	154:1,5 156:22	85:16 93:7 98:13
145:12 146:13	<b>sides</b> 149:1	159:12 172:9	101:20 112:5
155:12 159:21	<b>sidney</b> 71:4 73:5	197:21	113:22 135:9,20
166:7 167:4	<b>sign</b> 3:17 46:7	<b>sleeping</b> 154:4	141:12,12 142:8
176:18,22 178:11	226:8 229:12	172:6	146:18 164:24
178:14 179:17	<b>signature</b> 225:22	<b>slide</b> 64:3,16 74:18	197:2 200:22
190:13 191:16	228:9	76:19 79:18 81:15	206:12 213:7
192:4 200:19	<b>signed</b> 229:20	81:24 82:5,6,14,14	215:15
202:16 203:22	<b>significant</b> 170:20	100:4,7,8 103:8,9	<b>sort</b> 7:1,12 9:23
204:19 211:6	171:13,24	103:14,20 110:16	12:2,20 17:24
213:20 214:16	<b>signing</b> 226:10	<b>slides</b> 82:22	24:13 25:3,12
216:15 220:20	<b>similar</b> 26:11,13	<b>slightly</b> 51:14	28:12 29:8 31:15
221:9 222:2	33:17 34:13 37:20		32:2,3 33:19,23

[sort - straight]

Page 31

37:9,17 39:15 40:12,17 41:8 42:24 43:1,19 45:13 48:10,16 50:5 52:24 53:10 55:11 57:22 58:4 58:24 59:2 65:18 66:4,11 68:15 70:20 77:17,17 78:10 81:10 85:3 85:21 87:9,12 88:5 89:19 90:4,9 92:13 94:10 100:24 105:11,12 108:16,21 109:19 116:1 123:20 124:2,9 126:21 128:12 130:15 132:2 150:3 155:18,22 156:12 156:16 157:11,17 158:1,8,16 160:17 161:12 162:18 168:7 171:5,7,17 171:21 181:9,10 184:8 190:6,15,16 190:20 192:15 200:1 214:16 219:2 <b>sorts</b> 55:13 155:15 156:5 <b>sought</b> 68:14 <b>sound</b> 42:16 50:15 153:12 <b>sounds</b> 153:16 206:17 <b>source</b> 48:18 57:19,21,22 58:22 <b>sources</b> 50:12 58:4 58:9,10 61:24 62:3	<b>south</b> 1:17 <b>space</b> 15:20 29:23 30:8,9 72:6 226:6 <b>speak</b> 3:13,17 34:23 37:4,4,7 38:19 39:7,10,11 39:15 40:23 44:8 46:6,12,24 47:11 48:3 51:11,16 61:21 72:17 111:9 111:18 112:11 129:17 132:11,12 133:4,8,9 199:18 212:5 <b>speaker</b> 41:2,5 <b>speakers</b> 59:24 <b>speaking</b> 75:12 132:2 184:2 197:5 <b>speaks</b> 145:18 <b>special</b> 73:7 <b>specialty</b> 21:17,21 <b>specific</b> 20:14 27:20 49:15 50:2 58:10,22 60:1,15 62:13,15 63:5 75:12 130:20,24 132:22 155:22 157:21 181:10 189:15 209:19 212:4 <b>specifically</b> 24:11 29:11 32:15 48:22 49:5 51:10,13 75:8 79:5 93:13 112:8 125:8 153:8 159:18 171:9 177:19 208:24 213:24 214:21 219:14,19,20 <b>specificity</b> 180:13 189:22 190:19	<b>specify</b> 189:2 <b>speech</b> 3:14,16 40:6 41:12 42:3 42:11,13 44:12,13 44:14,21 <b>speeches</b> 13:19 72:1 <b>spell</b> 59:11 <b>spending</b> 82:15 <b>spent</b> 82:20 <b>sphere</b> 25:13 <b>spoke</b> 11:15 148:4 <b>spoken</b> 136:11 <b>sponsor</b> 41:1 <b>sponsored</b> 15:14 <b>spot</b> 212:19 <b>spring</b> 40:15 <b>square</b> 2:3 <b>staff</b> 54:19 55:21 56:6 135:14 <b>stance</b> 65:12 <b>stand</b> 37:5 63:12 84:12 <b>standard</b> 53:1 91:22 92:6 130:6 157:10 <b>standing</b> 225:4 <b>stands</b> 40:8 50:18 <b>start</b> 6:8 7:24 23:1 25:19 26:15 138:4 143:13 155:2 186:6 <b>started</b> 16:6 60:3 71:20 <b>starting</b> 18:2 143:19 149:23 157:6 <b>startle</b> 153:14 <b>starts</b> 83:2 <b>state</b> 16:18 25:12 61:13 115:1 226:5	<b>stated</b> 62:1 96:15 199:13 <b>statement</b> 87:21 106:12 168:4 200:9 <b>statements</b> 8:4 83:4 84:5,13,14 93:19 95:13,17 <b>states</b> 1:1 <b>stating</b> 5:14 <b>statistic</b> 48:23 49:10,13 50:13 61:17,19 63:12 <b>statistical</b> 58:15 <b>statistics</b> 49:21 51:2 52:6 61:10 62:21 <b>status</b> 156:22 <b>stay</b> 24:18 99:7 <b>steadfastly</b> 193:23 <b>steer</b> 217:12 <b>steered</b> 216:16,19 <b>steering</b> 46:24 47:7 <b>stenographically</b> 1:18 <b>step</b> 34:23 87:9 <b>stewardship</b> 25:5 <b>stood</b> 36:7 <b>stop</b> 131:9 <b>stories</b> 87:17 94:20 109:2,3 <b>story</b> 41:13 42:14 43:22 44:13 65:10 65:21 66:10,23 92:23 93:20 95:1 102:16 106:9,15 107:20 108:15 144:23 <b>straight</b> 87:17 88:2 94:20 95:2
--	--	---	---



[strangely - symptoms]

Page 32

<b>strangely</b> 89:5	214:7,14 215:20	52:16,21 54:11	<b>surgery</b> 140:20
<b>strategies</b> 127:3	217:5 220:21	55:13,24 67:8,21	<b>surrounding</b>
<b>street</b> 1:17,23 2:3	221:10	69:16 87:5 103:1	176:11
<b>stress</b> 55:10	<b>studies</b> 49:9,9,12	134:7 141:8 161:7	<b>surroundings</b>
105:10,11 136:15	<b>study</b> 49:15 76:20	164:11 165:9	153:2
141:8 143:11	77:9 79:13,14,21	172:12 213:4,24	<b>survey</b> 50:16,18
157:22 158:14	<b>stuff</b> 6:19	214:4 219:7	50:23 77:13
160:2 166:15	<b>subject</b> 110:22	<b>supported</b> 142:5	<b>survivors</b> 200:19
180:7 181:8	112:3 226:10	<b>supportive</b> 30:16	<b>suspect</b> 29:17
185:11 187:20,24	<b>subjective</b> 171:16	<b>supports</b> 169:14	33:16
188:17 189:3	<b>submit</b> 123:9	<b>suppose</b> 22:23	<b>suspicion</b> 109:3
<b>stretch</b> 201:7	<b>submitted</b> 114:6	69:12 95:7 112:8	122:5,11
<b>strong</b> 190:2	134:24	183:13 208:14	<b>switch</b> 182:23
<b>student</b> 9:15,18	<b>subscribed</b> 228:11	<b>sure</b> 6:13 8:13	<b>switched</b> 34:16
10:12,23 22:7	<b>substance</b> 158:23	14:18,22 15:22	<b>sworn</b> 5:22 225:7
31:20,22 36:21	228:6	22:15 26:3 29:16	228:11
37:13 40:24 54:24	<b>suddenly</b> 197:20	36:12 39:2 40:16	<b>symptom</b> 155:22
68:7,10 85:4	<b>suffered</b> 187:5	45:4 50:10,18	160:1
86:10,11 117:21	<b>sufficient</b> 119:6	60:9 61:8 66:16	<b>symptomatic</b>
128:13 129:3	<b>suggested</b> 121:10	67:1 69:3,22 75:6	58:19
130:10 134:10	<b>suggesting</b> 101:16	76:18 86:3 90:8	<b>symptoms</b> 118:6
136:5 150:9 172:7	122:13 159:6	90:15 96:3 98:13	125:23 126:18,19
172:8 206:11,13	218:14	98:16 100:16	139:15 146:1
206:15 208:6	<b>suggestions</b> 64:10	103:11 105:15	147:2 149:21,24
210:24 211:22	<b>suicidal</b> 20:13	108:2 114:19	150:2 151:12,18
212:14,20 213:10	<b>suicide</b> 10:12,20	116:8 124:22	154:18 158:2,5
215:12 217:22	221:23,24	128:10 131:10,18	159:6 160:19,23
218:1,6,19 222:20	<b>suite</b> 1:23 2:4,10	131:23 134:4	165:18,21 166:17
222:21	<b>summarizing</b>	138:10 139:6	168:18 169:2,4,11
<b>student's</b> 9:15	150:11	141:4 153:2	169:18 170:4,12
<b>students</b> 21:8 31:8	<b>summary</b> 4:13,16	156:24 158:4	171:6,21 180:4,12
31:9,15,16 32:12	50:24 171:18	159:5,24 160:12	180:13,19 181:1,6
34:3 35:3,5,9,15	173:24 174:24	166:9,13 167:6,13	181:10,20 182:6
36:16,19 37:10	175:6 205:22	169:8 181:24	182:16,18,21
50:9 54:22 55:5	<b>supervision</b>	184:17 185:20	183:1 184:5,6,9
56:3 62:1 68:5,9	225:11	189:1 190:8	185:9 187:3 188:3
85:7 86:10 102:22	<b>supplying</b> 148:8	193:11 199:2,5	188:4,11 189:22
112:13,23,24	<b>support</b> 3:20 11:5	202:24 218:4	191:2 194:3
113:5,8,23 114:3	24:13 30:11,13	220:2	195:14 196:14,20
134:8 211:4,5	31:16 36:18 37:9	<b>surface</b> 104:8	196:24 197:11
212:9,12 213:21	37:17 40:18 51:1		

<b>synonyms</b> 138:24 <b>synopsis</b> 18:1 29:8 30:8 <b>system</b> 199:19	<b>taught</b> 97:10 <b>tbtn</b> 40:8 <b>teacher</b> 44:18 45:8 45:18 <b>team</b> 21:2 26:7 <b>technical</b> 10:2 <b>technically</b> 9:22 23:5 46:22 <b>teleconference</b> 2:1 <b>tell</b> 9:1 12:13 14:15 24:23 31:1 34:11 44:12 67:8 77:7 122:21,21 123:16 138:5 144:8,11 155:23 159:11,12,15 170:23 172:3 204:9 225:7 <b>telling</b> 19:11 65:10 65:13,15,22 66:10 66:22 67:11,15,16 121:18 144:16 190:24 <b>tells</b> 64:8 179:4 <b>ten</b> 11:16 21:1 110:9 169:4,11 170:14 <b>tend</b> 92:24 <b>term</b> 10:2 36:22 62:17 210:18 <b>terms</b> 52:20 53:2 58:13,19 65:24 103:24 139:3 144:16 150:8 155:5 <b>test</b> 201:1 <b>testified</b> 5:24 162:9 <b>testimony</b> 7:9,16 10:16 11:4 97:11 136:19 164:19	191:22 198:16 204:13 207:12 208:17 209:9 225:5,9,14 229:9 229:18 <b>tests</b> 201:3 <b>text</b> 25:3 <b>thank</b> 6:8,9 22:14 223:7,18 <b>theirs</b> 15:21 <b>therapeutic</b> 21:3 <b>therapist</b> 9:17 21:6 <b>therapists</b> 21:7 <b>therapy</b> 20:9,11 145:4 <b>thereof</b> 225:16 <b>theresa</b> 1:19 225:23 <b>thing</b> 8:2 19:13 64:21 68:12 89:20 93:14 139:3 167:11 198:8 215:10 <b>things</b> 3:21 6:17 7:20 49:18 52:9 54:13 64:7 66:2 66:17 82:12,21 89:24 92:24 94:16 109:13 144:13 153:21 155:15,23 155:24 156:5,17 157:7,10 158:7 159:2 160:11,16 161:3,11,13 167:7 167:15 171:19 172:12,14 188:21 193:12 198:14 201:3 202:11,12 202:13,22 203:7,9	<b>think</b> 7:5 15:11,12 16:5 24:11 27:12 28:21 31:5 36:10 37:2 38:2,14 40:14 42:5 45:9 46:22 49:5 50:13 52:13,14,23 58:21 59:18,20 60:12,15 63:20 65:1,11 66:9,20,21,22 67:2 67:3,13,14,19 71:7 74:17 75:12 76:5 76:13,16 77:5 78:8,19 82:23 85:24 88:16 91:4 94:7,10,24 95:14 96:14,22 97:1 98:1 102:6,16,19 105:2 107:9,13 110:7 112:9 113:24 119:16 127:19 129:9 130:6 156:23 157:13 159:23 160:5 161:17,17 163:4,21 164:9 165:8,12 167:20 168:5 170:16 171:5 172:18 175:5,9 177:7 179:22,23 180:2 183:12 185:16 192:10,20 194:14 195:4 197:2,10 198:7,17 202:14 202:18 217:11 219:24 221:22 223:5 <b>thinking</b> 156:11 158:4 162:15 163:22 164:9
---	---	--	--

[thinking - transcription]

Page 34

172:4 <b>thinks</b> 68:16 123:8 177:19 <b>third</b> 11:3 41:12 42:5 47:4 180:3 <b>thirsty</b> 176:8 <b>thirty</b> 226:15 <b>thoroughly</b> 53:21 <b>thought</b> 63:17 67:16 79:6 111:23 128:16 131:16 164:12 183:7 197:3 214:2 215:17 <b>thoughts</b> 151:21 <b>threatened</b> 141:24 <b>three</b> 14:24 21:13 39:18 <b>threshold</b> 181:9 <b>throw</b> 209:20 <b>thrust</b> 106:21 <b>tick</b> 28:21 160:17 <b>ticked</b> 170:11 <b>ticks</b> 160:22 <b>time</b> 6:23,23 7:21 22:17 27:17 29:12 31:4,6 34:16 42:4 45:16 48:10 51:17 51:22 71:7,8 74:19 76:23 82:15 82:20,24 88:13,14 89:19 90:12,13 91:1,18,20 92:15 92:18 95:2 107:10 110:3,8,10 112:19 115:6,10 116:7,9 116:21,24 117:16 117:19,20 118:13 120:4 123:19 125:12,13,16 126:4,7 127:10,15	133:18 134:8 135:21 148:17 151:7 155:11 156:14,20 167:16 172:4,19 174:16 181:23 182:16 190:16 193:24 195:2 196:7 203:22 205:4,6 206:21 207:21 212:4,17,18 217:10 223:8,19 225:6 229:19 <b>timeframe</b> 229:8 <b>timeline</b> 114:24 <b>times</b> 6:11 9:4 16:14,14 43:11 66:21 67:16 99:6 99:7,12,15 115:13 130:4,4,7,14 133:24 207:10 208:16 214:22 217:3 <b>timing</b> 158:15 <b>tired</b> 197:6 <b>title</b> 13:19 14:12 15:6 24:17 32:2,7 83:14 86:23 87:4 87:10 133:22 134:2 135:14 143:20 164:7 204:2 206:2 209:23 210:8,10 210:16 218:19 219:7 <b>titled</b> 3:11,19 4:4 38:18 54:10 70:10 76:20 <b>titles</b> 14:21 <b>today</b> 6:10 7:9,13 8:21 9:13 11:8,10	27:17 47:20 84:4 223:19 <b>told</b> 67:17 68:13 123:6,21 138:6 144:3 178:1 191:15 197:8 217:18 218:20 219:1 <b>tool</b> 190:15 <b>top</b> 6:19 15:14 37:23 46:9 120:5 131:11 157:23 158:8,9 216:24 <b>topic</b> 10:10 26:24 27:3,20 28:1 36:9 36:11 37:6 39:12 39:14,17 55:18 65:8 70:24 71:12 71:13 72:11 73:8 106:3 111:16,18 111:19,24 112:7 177:3 192:7 <b>topics</b> 26:8 27:23 28:14 55:16 110:7 <b>touch</b> 182:1 <b>tower</b> 2:4 <b>track</b> 131:19 149:24 <b>tracking</b> 154:18 <b>trademarked</b> 34:19 <b>trailing</b> 106:11 <b>train</b> 35:2,12 76:6 79:19,23 <b>trained</b> 31:8,15 32:5 36:16 55:7 55:13 78:22 81:7 97:14,24 99:12,15 126:13 143:1 147:24 148:9	<b>training</b> 3:17,22 25:17 26:2,17 27:2 29:3,3,9,13 29:21,23 30:3,8,9 30:17,20,23 31:2 32:1 33:2,11,13 34:6,9,12,21 35:16 35:20 37:20 38:22 46:7 47:2,14 51:7 51:9,16 53:23 54:14,17 55:9 56:17,24 57:2 61:1 70:17,20 71:23 73:7 74:2,6 74:12 75:8,24 76:1,15,17 79:1 80:1 83:13 84:2,4 84:6,8 85:6,9,22 86:4,12 91:24 97:9,16,23 98:17 99:17,20 100:9,20 101:5 102:9,11,11 102:13 105:22 106:4,20 107:19 108:2,24 109:11 111:15 157:6 <b>trainings</b> 3:10 15:20 24:15 25:23 26:11,23 27:19 28:14,18 32:14,16 36:8 46:19 51:11 53:17 56:17 71:20 72:18 73:12 75:7 75:10 99:11 <b>transcribed</b> 225:11 <b>transcript</b> 174:21 215:12,18 226:16 226:17 229:6,20 <b>transcription</b> 225:12 228:4
---	---	--	--

<b>transgender</b> 30:12 <b>trauma</b> 15:1 22:19 23:10 25:4,5,8 34:1 58:1,6 59:1,7 59:19,23 60:14 81:8,11 83:2,5 84:23 86:6,17 91:13 92:18 93:3 93:3,18,19,21 94:5 94:8 96:1 101:11 101:16 104:10 105:8,23 108:11 108:12 109:11,15 110:22 111:5,23 112:7 140:19 141:3 146:20 158:13 166:8 167:9 168:13,16 179:24 181:20 182:13,15,18,19 182:20 183:1,8 189:7,7,11,14,19 196:17,23 202:7,9 203:8,11,11 214:1 <b>traumatic</b> 58:1,2 92:7 97:21 104:5 105:3,10,17 137:22 139:21,22 140:5 141:7 142:3 142:10 143:4,13 144:2 145:3,9,21 145:24 146:2,10 146:24 147:3,8 165:23 166:20,21 167:19 168:22 187:3,22 194:3 196:14 197:23 201:13,24 202:2 <b>traumatized</b> 86:14 94:21 97:8 167:4 196:22 197:7,9	<b>treat</b> 20:12 53:3 68:4,5 <b>treated</b> 207:11,13 208:4 <b>treating</b> 118:14 128:14 129:20,21 131:7 132:7,10 134:8 145:5 200:19 <b>treatment</b> 20:10 20:15 67:6,21 68:15,19,22 95:9 119:19 131:5 145:5 161:6 163:15 208:13 <b>triggering</b> 90:10 <b>triggers</b> 89:21 <b>tripped</b> 88:16 <b>trouble</b> 172:5,6 <b>troubling</b> 59:2 <b>true</b> 65:15,23 67:15 73:3 90:17 93:2 105:1 106:10 106:13,16,17 107:15 108:19 144:19,20 172:16 186:14 188:9,19 189:23,24 193:17 225:13 <b>trusted</b> 61:24 <b>trustees</b> 4:5 70:12 70:18 71:3 72:17 <b>truth</b> 65:7,12,13 65:20 66:5 143:20 191:1 225:8,8,9 <b>truthful</b> 67:10 88:11 94:1,22 <b>try</b> 86:3 88:21 157:20 166:14 218:6	<b>trying</b> 7:17 9:10 15:11 27:12 49:1 66:3,20 78:15 79:23 87:15 129:15 130:18 139:21 140:17 143:20 156:6 159:8,15 160:14 161:12 211:11,18 <b>tuned</b> 158:7 <b>tuning</b> 159:2 <b>turn</b> 25:16 34:5 38:6 39:18 41:17 45:21 54:2 57:6,9 61:5 63:24 70:2 73:24 81:5 91:8 113:11 173:9 205:7 <b>turned</b> 135:9,22 <b>turning</b> 139:19 <b>two</b> 7:20 9:11 10:5 13:2 14:4 18:13 19:6,22 20:16 21:13 30:6 36:1 38:6 51:20 52:4 72:1 75:22 76:7 85:6 86:10 92:9 97:14 99:10,12,15 114:10,13 115:1 115:13 117:17 119:3,12,14 148:24 170:6 180:12 188:21 189:17,18 191:16 204:1 205:5 207:4 210:19 216:5,24 217:15 <b>type</b> 7:20 43:11 47:11 52:12 58:1 58:2 62:2 63:9 76:15 81:22,22	93:14 118:1 132:18 172:13 <b>types</b> 32:16 94:15 157:4,10 170:8 <b>typical</b> 32:17 112:23 116:9 119:11 156:12 179:16,22 180:2 <b>typically</b> 62:21 91:19 93:24 96:18 107:16 116:11 133:16 149:1 156:19,23 216:16 <hr/> <b>u</b> <hr/> <b>uh</b> 8:5,5,5 <b>ulterior</b> 69:15 <b>ultimately</b> 211:14 <b>unable</b> 94:19 167:19 177:4 178:13 200:4 <b>unaware</b> 141:15 <b>uncomfortable</b> 35:1 44:1 161:10 <b>unconscious</b> 140:1 141:1,17 <b>undergo</b> 140:19 <b>undergrad</b> 18:4 <b>undergraduate</b> 35:4 <b>underlying</b> 49:20 56:5 208:12 <b>undermine</b> 165:9 <b>understand</b> 7:5,8 8:11,14 19:12 25:20 32:1 66:13 67:11 74:2 94:18 128:2 129:16,23 139:22 140:18 152:10 160:15 161:4,13 164:20 166:9 177:9
---	---	--	---

185:13 195:3 218:6 <b>understandable</b> 6:20 <b>understandably</b> 212:24 <b>understanding</b> 11:2 27:22 28:13 33:24 48:13 58:8 58:12 59:6,18 60:13 64:6 72:19 75:23 81:11 85:5 93:10 100:10 109:15 110:24 111:5 119:5 123:19 126:3 129:20 133:19 139:5 141:6 150:3 164:5,17 172:14 174:11 179:13 180:19 184:10,13 189:14 199:2 202:6 210:7 217:16 <b>understandings</b> 87:14 <b>understood</b> 8:17 26:5 88:10 111:23 113:24 131:6 132:17 148:5 163:5 216:9 <b>undertake</b> 53:20 <b>unfamiliar</b> 47:24 <b>united</b> 1:1 <b>university</b> 1:7 2:13,17,18 3:10 9:24 18:6 22:3,9 27:16 28:15,19 33:4 53:15,16 55:22 56:23 64:13 72:10,14,18 112:9	112:10 204:11 209:7 215:13 218:10 229:4 <b>university's</b> 36:5 <b>unrelated</b> 71:17 181:20 <b>untruthful</b> 96:10 <b>unusual</b> 6:10 160:21,23 <b>unwanted</b> 63:1 <b>unwittingly</b> 77:15 <b>update</b> 48:24 76:17 <b>updated</b> 52:1,19 76:11 84:2 <b>updates</b> 53:10 58:18 <b>upper</b> 56:3 <b>upstairs</b> 156:18 <b>urgent</b> 212:15 213:2 215:2 <b>use</b> 29:11 107:16 139:3 150:8 151:7 156:21 157:1 161:7 179:20 198:2 <b>usually</b> 36:20 37:7 47:1 90:12 107:8 107:14 119:14 149:16 157:1 161:1 <b>utilize</b> 127:2	<b>value</b> 65:19 <b>van</b> 25:1 59:8,16 <b>variable</b> 179:24 <b>variety</b> 62:18 129:10 <b>various</b> 26:7 53:7 58:9 111:10 <b>vary</b> 62:14 <b>venture</b> 217:2 <b>verbal</b> 8:8 <b>verbatim</b> 174:21 <b>verification</b> 120:6 124:11 <b>verify</b> 229:9 <b>veritext</b> 1:22 229:14,23 <b>veritext.com</b> 229:15 <b>version</b> 53:5 92:11 137:7,10,12 144:23 <b>versions</b> 52:8 53:7 53:12 58:17 <b>victim</b> 84:18 96:1 101:15 107:11 108:5 <b>victim's</b> 107:21 <b>victims</b> 61:14 83:3 86:17 93:18 179:17 214:15 <b>view</b> 65:21 97:18 110:19,21 153:18 165:1 199:3 <b>viewed</b> 109:3 164:12 165:4 <b>vigil</b> 40:12,17 <b>violate</b> 207:2 <b>violation</b> 31:11 142:1 <b>violence</b> 57:16 59:19 60:14	<b>virginia</b> 1:1,17 2:11 15:8 16:18 18:20 21:12 <b>virtually</b> 6:10 <b>visible</b> 126:18 <b>visits</b> 117:17 <b>volition</b> 67:20 <b>voluntarily</b> 67:5 <b>voracity</b> 69:9 <b>vs</b> 1:6  <b>w</b>  <b>w</b> 16:19 21:23 <b>w&amp;l</b> 3:12,19 4:4 22:17 26:2,18 38:18 54:11 68:6 70:11 72:6 134:9 220:21 221:9 222:7 <b>wait</b> 7:23 <b>waive</b> 5:11 <b>walk</b> 154:16 168:10 <b>want</b> 6:8 12:1 13:15 28:12,20 74:1 82:21 89:15 89:17 94:17 98:5 106:15 113:11 114:23 128:15,24 129:7,11,23 132:11,12 139:5 149:11 153:8 186:14,18 191:7 191:10,12 209:20 215:10 216:20 219:24 223:12,13 <b>wanted</b> 36:7 63:22 75:3 128:4 129:3 131:18,22 141:19 152:11 174:8 186:17 199:1 215:4,21
--	---	--	---



<b>wanting</b> 176:7	<b>week</b> 55:8 113:1	154:21 162:11	104:7 105:5 106:1
<b>washers</b> 60:2	<b>weeks</b> 36:1,1	163:10,21 164:24	107:23 108:7
<b>washington</b> 1:7	<b>weigh</b> 130:17,21	165:12 178:16	109:6,17 111:1
2:13,17,18 9:11,15	<b>weighing</b> 168:3	183:22 184:15	118:17 119:8
9:16 10:6,23	199:9	185:3 186:23	122:24 123:14,24
13:14,20 16:13	<b>weight</b> 165:1	187:8 193:7,16	124:14 127:13
17:3,17 30:9 37:1	<b>weighted</b> 164:13	195:17 196:12	128:6,18 129:2
40:20,22 56:19	<b>weinstein</b> 43:2	200:21 201:19	130:2 131:11
71:16 78:12	<b>weird</b> 88:24	202:22 204:8,13	138:18 140:11
112:15 117:19	<b>welcome</b> 223:21	204:20,22 207:14	141:10 143:6,23
133:24 229:4	<b>west</b> 2:4	208:11 209:1,4,9	145:17 146:14
<b>way</b> 7:1 12:19	<b>western</b> 1:1	209:12,17,21,23	148:12 149:4,13
24:18 25:9 30:16	<b>when's</b> 116:21	210:17,23 211:14	154:20,22 162:8
32:13 36:13 40:19	<b>who've</b> 179:24	211:22 212:2,3	163:9,20 164:23
52:24 58:14 63:16	202:9 213:21	217:16,17,24	165:11 178:15
63:21 77:14 88:7	<b>willing</b> 121:15	219:6 220:2,6	183:21 184:14
92:18,23 93:4,4	<b>window</b> 60:2,3	222:7,8 223:21,23	185:2 186:4,22
94:3,6,9 103:22	116:7,9	225:14,18 226:1	187:7 192:21
108:13,22 118:24	<b>wisconsin</b> 12:23	229:8,10,12,19	193:6,15 194:5,11
125:10 129:19	19:3,4	<b>witnesses</b> 210:2	195:5,16 200:20
135:6 138:4	<b>wish</b> 193:13	<b>wittingly</b> 77:15	201:18 202:21
139:11 140:13	<b>withdrawn</b> 211:15	<b>woman</b> 44:5,8,9	207:16 217:23
150:1 153:11	<b>witness</b> 3:3 68:14	<b>women</b> 39:11	220:7 229:1
158:20 162:15	68:17 69:7,19,21	42:17 43:3,8	<b>woods</b> 2:8
166:12 168:3	72:13,23 73:2,17	45:12 48:9 61:11	<b>word</b> 63:8 82:8,9
171:22 183:2	78:6 79:4 80:15	61:14 62:23 63:13	161:7 179:20
189:20 191:13	84:20 85:19 87:2	87:6	209:21 217:17
197:20 198:4	87:19 88:4,16	<b>wonder</b> 190:1	<b>worded</b> 63:18
199:14 200:16	89:17 90:15 91:3	<b>wondered</b> 197:17	<b>words</b> 69:13 73:10
201:9 219:3	94:24 96:3,17	199:16	96:22 107:10
<b>ways</b> 51:24 110:18	101:8,19 102:5	<b>wondering</b> 199:22	151:8 159:9 179:6
142:2 155:9,20	104:8 105:6	<b>wood</b> 2:9 5:18,18	222:11,16
156:12 170:6	107:24 108:8	11:15 68:24 69:6	<b>work</b> 20:3,23 25:8
202:15	109:7,18 111:2	69:18,20 72:12,22	27:12 30:14 43:6
<b>we've</b> 46:12 71:19	118:18 119:9	73:1,15 78:5 79:3	59:23 60:5 76:24
81:10 109:11,13	123:1,15 124:1,15	80:13 82:16 84:19	77:4,19 78:16
110:7 204:10	127:14 128:7,19	85:14,18 87:1,18	80:16 100:3
<b>website</b> 213:20	129:3 130:3	88:3,15 89:16	132:18 133:24
<b>websites</b> 49:3	140:12 141:11	90:14,21 91:2	171:15 172:17
<b>wednesday</b> 1:10	143:7,24 146:15	94:23 96:2,16	214:14
	148:13 149:5,14	101:7,18 102:4	

[worked - yesterday]

Page 38

<b>worked</b> 12:12 19:2 19:6,21 20:17,20 43:4 211:5 217:4	90:15 96:23 98:5 98:10 115:23 120:21 122:12
<b>worker</b> 17:17	128:19 130:18
<b>working</b> 58:5 66:5 127:2 132:19 149:16 214:3	132:19 154:22 158:4 171:1 195:17 211:20
<b>works</b> 27:13 32:3 61:21 112:10	218:16,20
<b>workshop</b> 17:9	<b>year</b> 3:16 10:17,21 19:24 21:14 23:8
<b>worried</b> 172:10 215:11	35:3,4,9 36:14 38:23 39:3 42:4
<b>wrapping</b> 131:17 171:5	42:23 43:20 45:11 46:16 56:19 71:11
<b>write</b> 7:18 126:11 126:11	204:15,16 209:10
<b>writes</b> 25:7	<b>years</b> 10:4,19 12:11 19:6,10
<b>writing</b> 63:16 142:24	21:13 36:24 37:2 37:21 39:1,2
<b>writings</b> 58:24	40:21 46:15 48:11
<b>written</b> 3:9 16:3 28:16 40:2 61:2 77:12 121:21 134:17 135:17 185:7,18 198:17 204:11	48:24 49:17 50:22 56:2,18 58:18 99:4 133:20
<b>wrong</b> 3:21 33:8 50:14 54:13 190:14 194:4,8	<b>yep</b> 19:1 29:24 46:8 223:6
<b>wrongly</b> 104:2	<b>yesterday</b> 121:9
<b>wrote</b> 124:21,21 126:7,23 164:15	
<b>x</b>	
<b>x</b> 3:1,6	
<b>y</b>	
<b>y</b> 18:8 <b>yeah</b> 17:8 19:9 31:19 56:10 65:5 69:11 76:13 80:18 82:7 84:10 89:18	

Rules of Supreme Court of Virginia

Part Four - Pretrial Procedures

Depositions and Production at Trial

Rule 4.5

(e) Submission to Witness; Changes; Signing.

When the testimony is fully transcribed, the deposition shall be submitted to the witness for examination and shall be read to or by him, unless such examination and reading are waived by the witness and by the parties. Any changes in form or substance which the witness desires to make shall be entered upon the deposition by the officer with a statement of the reasons given by the witness for making them. The deposition shall then be signed by the witness, unless the parties by stipulation waive the signing or the witness is ill or cannot be found or refuses to sign. If the deposition is not signed by the witness within 21 days of its submission to him, the officer shall sign it and state on the record the fact of the waiver or of the illness or absence of the witness or the fact of the refusal to sign together with the reason, if any, given therefor; and the deposition may then be used as fully as though signed unless on a motion

to suppress under Rule 4:7(d)(4) the court holds that the reasons given for the refusal to sign require rejection of the deposition in whole or in part.

DISCLAIMER: THE FOREGOING CIVIL PROCEDURE RULES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY. THE ABOVE RULES ARE CURRENT AS OF APRIL 1, 2019. PLEASE REFER TO THE APPLICABLE STATE RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

VERITEXT LEGAL SOLUTIONS  
COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

Veritext Legal Solutions is committed to maintaining the confidentiality of client and witness information, in accordance with the regulations promulgated under the Health Insurance Portability and Accountability Act (HIPAA), as amended with respect to protected health information and the Gramm-Leach-Bliley Act, as amended, with respect to Personally Identifiable Information (PII). Physical transcripts and exhibits are managed under strict facility and personnel access controls. Electronic files of documents are stored in encrypted form and are transmitted in an encrypted fashion to authenticated parties who are permitted to access the material. Our data is hosted in a Tier 4 SSAE 16 certified facility.

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